

2016 Regular Session

HOUSE BILL NO. 837

BY REPRESENTATIVE GISCLAIR

MINERALS/LEASES: Relative to the Oilfield Site Restoration program

## 1 AN ACT

2 To amend and reenact R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1) and  
3 (3)(introductory paragraph), and to enact R.S. 30:91(B)(5), relative to the Louisiana  
4 Oilfield Site Restoration Law; to provide relative to oilfield site trust accounts; to  
5 require a site-specific trust account for certain oilfield sites; to provide relative to  
6 orphaned oilfield sites; to provide for the procedure prior to declaring a site  
7 orphaned; to provide certain penalties; to provide relative to the recovery of site  
8 restoration costs; to provide for certain monetary limits and their effects; to provide  
9 certain terms, conditions, requirements, and procedures; and to provide for related  
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1) and  
13 (3)(introductory paragraph) are hereby amended and reenacted and R.S. 30:91(B)(5) is  
14 hereby enacted to read as follows:

15 §88. Oilfield site trust accounts

16 A.(1) If an oilfield site is transferred from one party to another, a site-specific  
17 trust account may be established to separately account for each such site for the  
18 purpose of providing a source of funds for site restoration of that oilfield site at such  
19 time in the future when restoration of that oilfield site is required.

20 (2) If an oilfield site is transferred from the operator of record to another  
21 operator, a site-specific trust account shall be established to separately account for

1 each such site for the purpose of providing a source of funds for site restoration of  
2 that oilfield site at such time in the future when restoration of that oilfield site is  
3 required.

(3) For purposes of this Part, a transfer shall be deemed to have been made once there is a change in ownership of any kind at an oilfield site. Once established, the site-specific trust account shall survive until completion of site restoration of the associated oilfield site.

B. In the event the parties or operators of record to a transfer elect to establish a site-specific trust account under this Section, the assistant secretary shall require an oilfield site restoration assessment to be made to determine the site restoration requirements existing at the time of the transfer, or at the time the site-specific trust account is established. The oilfield site restoration assessment shall be conducted by approved site assessment contractors appearing on a list approved by the commission or acceptable to the commission. The oilfield site restoration assessment shall specifically detail site restoration needs and shall provide an estimate of the site restoration costs needed to restore the oilfield site based on the conditions existing at the time of transfer, or at the time the site-specific trust account is established.

C. The party ~~or parties~~ or operator of record to the transfer shall, based upon the site restoration assessment, propose a funding schedule which will provide for the site-specific trust account. The funding schedule shall consider the uniqueness of each transfer, acquiring party or acquiring operator, and oilfield site. Funding of the site-specific trust account shall include some contribution to the account at the time of transfer and at least quarterly payments to the account. Cash or bonds in a form and of a type acceptable to the assistant secretary, or any combination thereof, may also be considered for funding. The assistant secretary shall monitor each trust account to assure that it is being properly funded. The funds in each trust account shall remain the property of the commission.

28 \* \* \*

1 E. When transfers of oilfield sites occur subsequent to the formation of site-  
2 specific trust accounts but prior to the end of their economic life, the assistant  
3 secretary and the acquiring party or acquiring operator shall, in the manner provided  
4 for in this Section, again redetermine cost and agree upon a funding schedule. The  
5 balance of any site-specific trust account at the time of subsequent transfer shall  
6 remain with the oilfield site and shall be a factor in the redetermination.

7 F. Once the assistant secretary has approved the site-specific trust account,  
8 and the account is fully funded, the party or operator of record transferring the  
9 oilfield site and all prior owners, operators, and working interest owners shall not  
10 thereafter be held liable by the state for any site restoration costs or actions  
11 associated with the transferred oilfield site. The party acquiring or the operator  
12 acquiring the oilfield site shall thereafter be the responsible party for the purposes  
13 of this Part.

14 G. The failure of a transferring party or the transferring operator of record to  
15 make a good faith disclosure of all oilfield site conditions existing at the time of the  
16 transfer may render that party or operator liable for the costs of restoration of such  
17 undisclosed conditions in excess of the balance of the site-specific trust fund.

18 H. Except as provided in Subsection E of this Section and Paragraph (A)(2)  
19 of this Section, the parties to a transfer may elect not to establish a site-specific trust  
20 account; however, in the absence of such account, the parties shall not be exempt  
21 from liability as set forth in Subsection F of this Section.

22 \* \* \*

23 §91. Orphaned oilfield sites

24 \* \* \*

25 B.(1)(a) Prior to declaring a site to be an orphaned oilfield site, the assistant  
26 secretary shall seek to notify ~~the last operator~~ all operators of record, at ~~his~~ their last  
27 known address contained in the department records, of the site that is to be declared  
28 orphaned and shall publish a notice in the Louisiana Register that the oilfield site is  
29 to be declared orphaned.

(b) If the current operator of record fails to respond or fails to close and restore an oilfield site when ordered by the assistant secretary, then the assistant secretary shall order, in reverse chronological order from the date of the notice provided in this Subsection, the former operators of record of the oilfield site to close and restore the oilfield site in accordance with the rules and regulations adopted by the assistant secretary.

(c) If resolution of a factual dispute is requested by any owner or operator, the assistant secretary shall hold a fact-finding hearing prior to declaring the site orphaned and the assistant secretary shall make any fact determination necessary to resolve the dispute.

\* \* \*

(5) Failure by an operator of record of an oilfield site to close and restore the oilfield site when ordered to do so by the assistant secretary shall subject that operator to the provisions of R.S. 30:93 and the penalties in R.S. 30:94.

\* \* \*

### §93. Recovery of site restoration costs

A. If the assistant secretary undertakes restoration of an orphaned oilfield site under this Part, the secretary shall seek to recover all costs incurred by the secretary, assistant secretary, penalties, and other relief from any party who has operated or held a working interest in such site, or who is required by law, rules adopted by the department, or a valid order of the assistant secretary to control, clean up, close, or restore the oilfield sites in accordance with the following:

(1) All oilfield sites for which there is no site-specific trust fund shall be restored with monies provided by the fund. Except for the responsible party, the secretary shall not be authorized to recover restoration costs from parties which formerly operated or held a working interest in an orphaned oilfield site unless restoration costs for a particular orphaned oilfield site including support facilities exceed ~~two hundred~~ fifty thousand dollars. Recovery of costs under this Paragraph

1 shall be from the parties in inverse chronological order from the date on which the  
2 oilfield site was declared orphaned.

3 \* \* \*

4 (3) If the oilfield site does not meet the provisions of R.S. 30:88(F) and  
5 restoration costs exceed ~~two hundred~~ fifty thousand dollars, recovery of costs shall  
6 be from the parties in inverse chronological order from the date on which the oilfield  
7 site has been declared orphaned, except that a party shall be exempt from liability for  
8 restoration of an orphaned oilfield site as provided for in this Part in which said party  
9 had an operating or working interest if, and only if, the party complies with all of the  
10 following:

11 \* \* \*

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 837 Original

2016 Regular Session

Gisclair

**Abstract:** Provides relative to the establishment, operation, procedures, and penalties associated with site-specific trust accounts for certain oil field sites.

Present law authorizes the establishment of a site-specific trust account for an oilfield site that is transferred from one party to another party.

Proposed law requires the establishment of a site-specific trust account for an oilfield site that is transferred from the operator of record to another operator.

Present law provides for the procedure of declaring an oilfield site as orphaned. Requires that prior to declaring a site orphaned, the assistant secretary of Dept. of Natural Resources (DNR) must notify the last operator of record.

Proposed law requires the asst. secretary of DNR to notify all operators.

Proposed law provides that if the current operator of record fails to respond or fails to close and restore an oilfield site when ordered by the asst. secretary, then the asst. secretary must order, in reverse chronological order from the date of the notice provided in present law, the former operators of record to close and restore the oilfield site.

Proposed law provides for penalties and the recovery of site restoration costs to be assessed against the operator who fails to close and restore the oilfield site.

Present law provides recovery of site restoration costs. Further provides that the secretary of DNR is not authorized to recover restoration costs from parties that formerly operated or held a working interest in an orphaned oilfield site unless restoration costs for a particular orphaned oilfield site including support facilities exceed \$250,000.

Proposed law changes the restoration costs limitation from \$250,000 to \$50,000.

Present law provides that if the oilfield site does not meet the provisions of R.S. 30:88(F) and restoration costs exceed \$250,000, recovery of costs will be from the parties in inverse chronological order from the date on which the oilfield site has been declared orphaned, except that a party will be exempt from liability for restoration of an orphaned oilfield site if the party meets certain requirements.

Proposed law changes the restoration costs limitation from \$250,000 to \$50,000.

(Amends R.S. 30:88(A), (B), (C), (E), (F), (G), and (H), 91(B)(1), 93(A)(1) and (3)(intro. para.); Adds R.S. 30:91(B)(5))