Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval Director
Oil Conservation Division

July 26, 2022

To:
American Oversight
Ms. Marwah Adhoob & Ms. Taylor Stoneman
1030 15th St. NW
Suite B255
Washington, D.C. 20005
Ph 202.848.119 Email: records@americanoversight.org

RE: New Mexico Inspection of Public Records Act Request

Ms. Marwah Adhoob & Ms. Taylor Stoneman,

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-25-22. Requesting:

"All email communications (including emails, email attachments, complete email chains, calendar invitations, and calendar invitation attachments) between (a) any of the officials listed below, and (b) anyone communicating from or on behalf of the external entities listed below (including, but not limited to, at the listed email addresses and/or domains). Oil Conservation Division Officials:

i. *Adrienne Sandoval, Director, or anyone communicating on her behalf, such as an assistant or scheduler*
ii. *Tiffany Polak, Deputy Director*
iii. *Brandon Powell, Engineering Bureau Chief*
iv. *Rosa Romero, Environmental Bureau Chief*
v. *Leigh Barr, Permitting Group Supervisor*
vi. *Cory Smith, Projects Group Supervisor*

External Entities:
a. *New Mexico Oil and Gas Association (nmoga.org)*
b. *Interstate Oil and Gas Compact Commission, including, but not limited to, Lori Wrotenbery (iogcc.state.ok.us)*
c. *Independent Petroleum Association of New Mexico (ipanm.org)*
d. *FTI Consulting (fticonsulting.com)*
e. *Jeff Murray*

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f. *535 Group, LLC (535group.com)*
g. *Diamondback Energy Inc. (diamondbackenergy.com)*
h. *Chevron USA Inc. (chevron.com)*
i. *ExxonMobil/XTO Energy Inc. (exxonmobil.com)*
j. *Marathon Oil Corporation or Marathon Petroleum Corporation (marathonoil.com, marathonpetroleum.com)*
k. *EOG Resources (eogresources.com)*
l. *Devon Energy (dvn.com)*
m. *ConocoPhillips Co. (conocophillips.com)*
n. *Occidental Petroleum (oxy.com)*
o. *Mewbourne Oil Co. (mewbourne.com)*
p. *Matador Production Co. (matadorresources.com)*
q. *Cimarex Energy Co. (cimarex.com)*
r. *APA Corporation/Apache Corporation (apachecorp.com)"*

Due to the broad and burdensome nature of your request, Oil Conservation Division (OCD) provided communications to American Oversight on 05-25-2022, 06-08-2022, and 07-01-2022, requesting extended time in effort to provide responsive records.

Pursuant to 1978 NMSA 14-2-1 (H), the Department has withheld seventeen (17) documents, subject to the lawyer-client privilege and nine (9) documents comprising of settlement negotiations, and impending enforcement cases, See NMRA 11-503 and 11-408. The individual responsible for this denial is Jesse Tremaine, EMNRD attorney.

Through our agency's file share platform Center Stack, Oil Conservation Division (OCD) has provided two hundred and sixty-eight (268) responsive records of communications. OCD continues to process your request and requires additional reasonable time to respond. OCD will continue to make rolling productions and will respond again by August 9, 2022.

Respectfully,
Oil Conservation Division
Anna Squires, Administrative Svcs. Coordinator
OCD IPRA CONTACT
Ph. 505.490.2162
Anna.Squires@state.nm.us

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Subject: RE: 07.26.22 IPRA OCD Partial Fulfillment Response TO American Oversight REG. OCD Communications.
Date: Wednesday, July 27, 2022 at 12:07:34 PM Eastern Daylight Time
From: Tremaine, Jesse K, EMNRD
To: Taylor Stoneman, AO Records
CC: Squires, Anna, EMNRD
Attachments: image002.jpg, image004.png, image005.png

EXTERNAL SENDER

Good Morning Ms. Stoneman and American Oversight,

I am following up to correct the denial language which you received yesterday in the forwarded email and letter attachment. There was an error in some edited language, resulting in possibly confusing categories of withheld records. The section should read:

> "Pursuant to 1978 NMSA 14-2-1 (H), the Department has withheld seventeen (17) documents subject to the lawyer-client privilege and nine (9) documents comprising settlement negotiations in pending enforcement cases. *See* NMRA 11-503 and 11-408. The individual responsible for this denial is Jesse Tremaine, EMNRD attorney."

In total the OCD withheld twenty-six (26) records yesterday. The seventeen referenced documents are privileged internal email correspondence between the Office of General Counsel (OGC) and OCD leadership or OGC's legal comments on specific draft documents. The other nine documents referenced are offers to settle in currently pending matters. OCD has not withheld any records as generally related to OCD's enforcement authority.

I hope that this clarifies the limited scope of records in question but please reach out directly if you have any questions. Also, I would greatly appreciate if you could confirm that you are able to retrieve and review the disclosed records through CentreStack. OCD will continue to process several hundred additional records and we want to verify that the file sharing platform is working appropriately for you.

Thank you,

Jesse K. Tremaine
Attorney, Office of General Counsel
New Mexico Energy, Minerals & Natural Resources Department
1220 South St. Francis Dr., Santa Fe, NM 87505
Cell: (505) 231-9312
E-mail: JesseK.Tremaine@state.nm.us

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Subject: 115 Errors
Location: Microsoft Teams Meeting

Start: Thursday, May 12, 2022 10:15 AM EDT
End: Thursday, May 12, 2022 10:30 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Garcia, John A, EMNRD <JohnA.Garcia@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; John Smitherman <JRS@nmoga.org>
Optional Attendees: Perez, Yolanda <Yolanda_Perez@oxy.com>; Zuniga, Erica E <Erica_Zuniga@oxy.com>; Cordova, Kimberly (Insight Global Inc) <Kimberly_Cordova@oxy.com>; Iannuzzi, Morgan A <morgan@chevron.com>; Liang, Sabrina <SLiang@chevron.com>; Young, Eric <eric.m.young@exxonmobil.com>; Harrington, Jerry L. <Jerry.Harrington@chevron.com>

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 505-312-4308,,805384863# United States, Albuquerque
Phone Conference ID: 805 384 863#
Find a local number | Reset PIN

Learn More | Meeting options

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Special Meeting of IOGCC Official Representatives
Colorado Springs, CO
August 15-18, 2021

Scheduling

Cheyenne Mountain Resort (www.cheyennemountain.com).

A day and a half of meetings. Opening reception and dinner on Sunday evening. Working sessions on Monday and Tuesday morning. Adjourn in time for Tuesday afternoon departures.

Agenda

Primary agenda item will be a strategic visioning and action planning session. A facilitator will be engaged for this item.

Other business items may be addressed as determined by the Chair.

Participants

The official representative or a designated alternate of each member state or associate member state.

Invitations will be extended to official representatives of affiliates and to standing committee chairs and vice-chairs.

Due to the limited number of participants and the availability of scholarships, current plans do not include remote attendance. [If travel restrictions related to the pandemic affect a significant number of participants, remote attendance may be offered for some sessions.]

Budget and contingencies

To be considered and accounted for as an add-on to the 2021 Annual Business Meeting.

A scholarship will be available to the official representative or designated alternate of each member state or associate member state. The scholarship will cover airfare and room for two nights, plus additional travel expenses on a case-by-case basis.

Meals provided will include a reception and dinner on Sunday evening, breakfast and lunch on Monday, and breakfast on Tuesday.

The force majeure clause of the hotel contract will cover cancellation due to the pandemic.

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Interstate Oil and Gas Compact Commission

2021 Strategic Planning Survey
Preliminary Analysis

Kaitlyn Smith, Technical Coordinator

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NM-EMNRD-22-0512-B-000003

Agenda

- Purpose of the Survey
- Detailed Survey Analysis
- IOGCC Mission Statement and Vision
- Development of Strategic Plan

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INTERSTATE Oil & Gas COMPACT COMMISSION

Purpose of the Survey

- Prepare to update the IOGCC strategic plan and conduct an environmental scan.
- Survey questions addressed:
  - Issues facing the IOGCC membership.
  - Services provided by IOGCC.
- Received 58 completed responses.
- Will help ensure services and activities continue to align with member needs.

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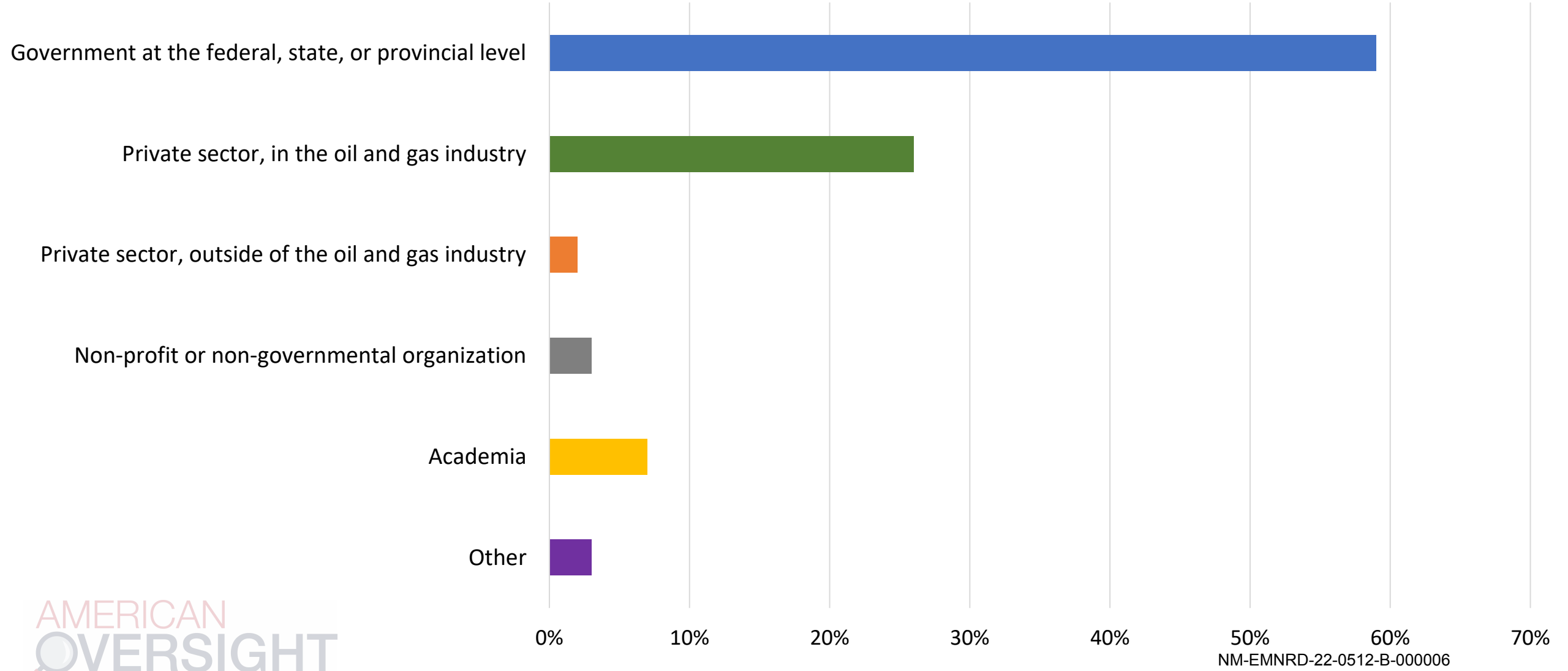
Member's Category of Work



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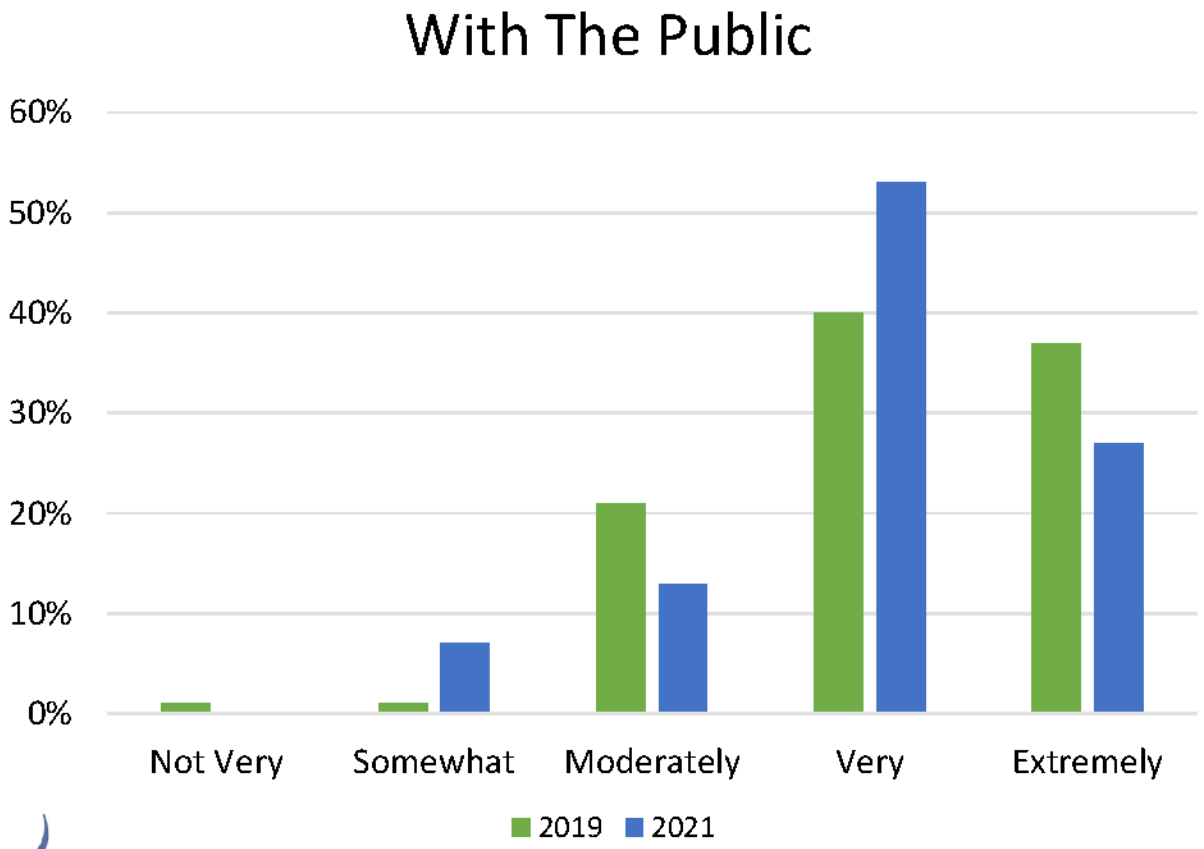
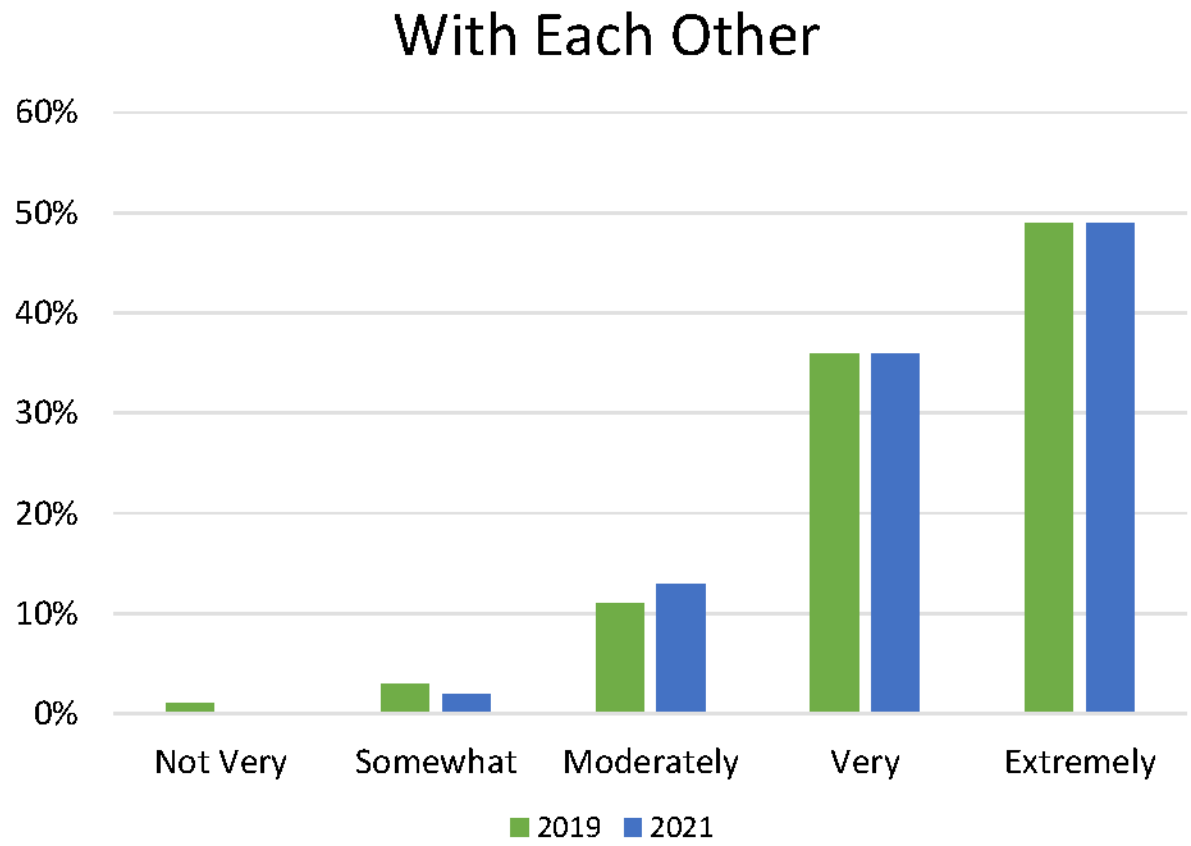
* 58 submitted responses

Importance of Sharing Information





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INTERSTATE Oil & Gas COMPACT COMMISSION

* 2019 - 94 submitted responses
* 2021 - 55 submitted responses

Top Topics To Share With Public

2019

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. Produced Water Recycling and Reuse
4. Technology Innovations
5. Hydraulic Fracturing

* 78 submitted responses

2021

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. General Energy Knowledge/Factual Data
4. Importance of Fossil Fuels in Society
5. Health and Safety of Public

* 48 submitted responses

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INTERSTATE Oil & Gas COMPACT COMMISSION

Top Topics To Share With Each Other

2019

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. Produced Water Recycling and Reuse
4. Technology Innovations
5. Hydraulic Fracturing

* 78 submitted responses

2021

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Plugging and Identifying of Idle/Orphan Wells
3. Technology Innovations
4. CCUS
5. Hydraulic Fracturing and Horizontal Drilling

* 48 submitted responses

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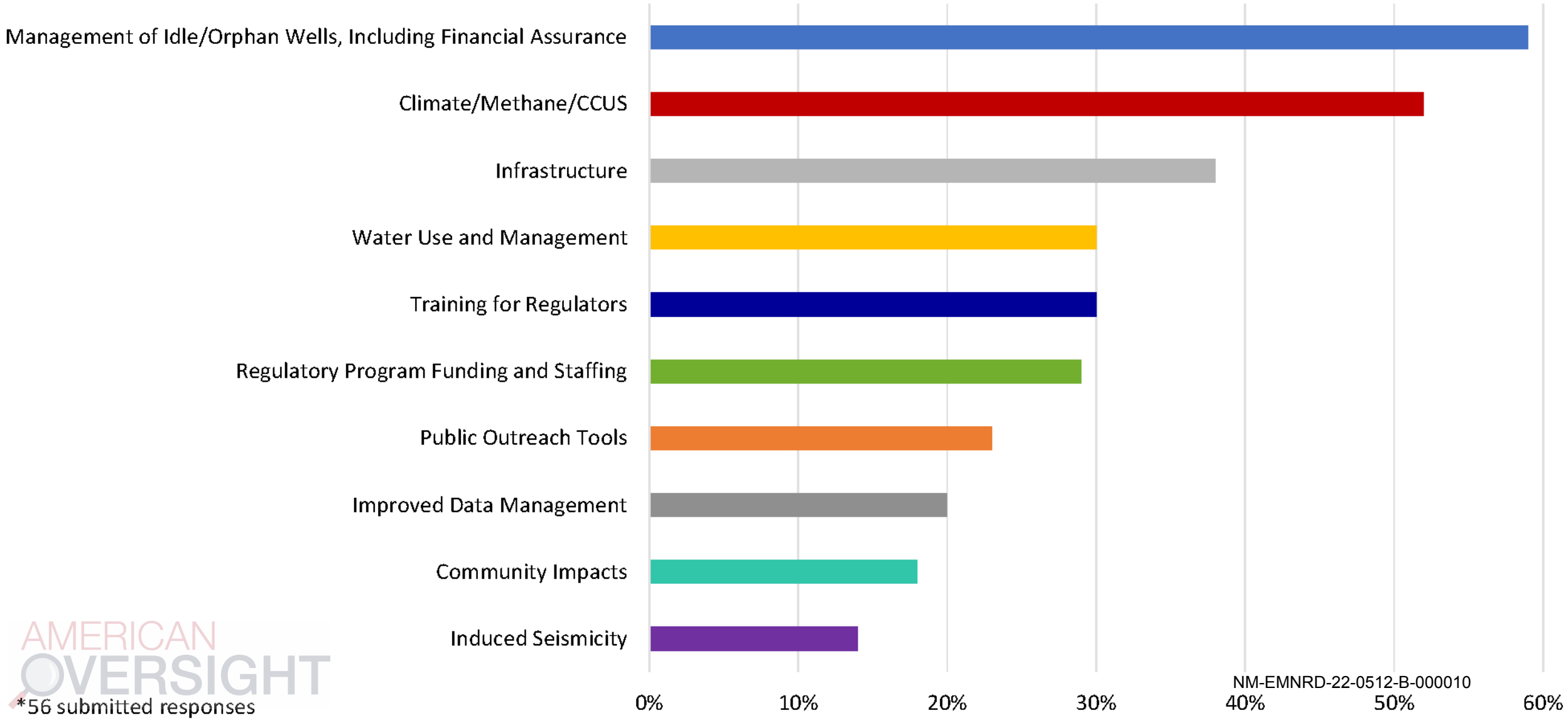
INTERSTATE Oil & Gas COMPACT COMMISSION

Top Areas of Interest



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*56 submitted responses

Additional Areas of Interest

- What is one area that needs to be addressed that is not listed in question 13?
  - 37 respondents answered this question.
  - Top additional areas of interest:
    - Hydraulic Fracturing and Horizontal Drilling and Completions
    - Environmental, Social, and Governance (ESG) for Regulators
    - Underground Injection Control (UIC)
    - Wellbore Integrity

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Technologies To Better Understand

2019

1. Horizontal Drilling, Hydraulic Fracturing, and Completions
2. Produced Water Recycle and Reuse
3. Induced Seismicity and Seismic Monitoring
4. Methane Monitoring and Flaring Alternatives
5. Advanced Data Management and Analytics

*76 submitted responses

2021

1. CCUS
2. Horizontal Drilling, Hydraulic Fracturing, and Completions
2. Artificial Intelligence, Advanced Data Management and Analytics, and Remote Monitoring
2. Methane Detection and Flaring Elimination
5. Plugging and Cementing

*48 submitted responses

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INTERSTATE Oil & Gas COMPACT COMMISSION

Technologies Connected to ERRT

- 2021 Technical Topics from ERRT Survey:
    1. Plugging and Remediating Orphan Wells and Sites
    2. Venting and Flaring
    3. EOR/Hydrogen
    4. Hydraulic Fracturing/Completions
- All four topics align with 2021 technologies to better understand.
- ERRT promotes 2021 topics via knowledge-sharing project portal and webinar series.
- Example of how Standing Committees assist in carrying out the IOGCC Strategic Plan.

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INTERSTATE Oil & Gas COMPACT COMMISSION

Best Mechanisms For Sharing Information

2019

1. Meetings/Workshops
2. Common Database Systems
3. Webinars/Online Trainings

*93 submitted responses

2021

1. Webinars/Online Trainings
2. Meetings/Workshops
3. Common Database Systems

*55 submitted responses

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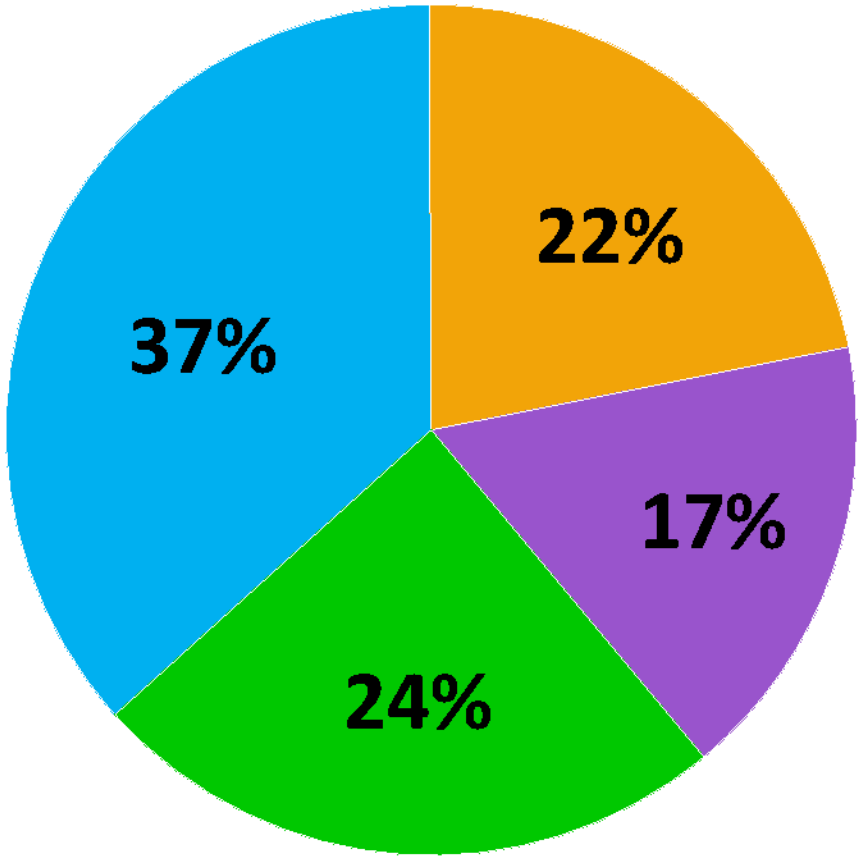
INTERSTATE Oil & Gas COMPACT COMMISSION

Training Gaps Among Regulators



- Advanced Technologies/ Industry Innovations
- Knowledge Gap
- Practical Experience Gap
- Other

* 46 submitted responses

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Improvements Among Regulators

- For 2021, 85% of respondents believe regulators are up to speed with industry technologies.
  - 54 responses
- For 2019, 75% of respondents believe regulators are up to speed with industry technologies.
  - 94 responses
- Increase possibly tied to trainings IOGCC has been doing.
- There are still areas for additional training opportunities.

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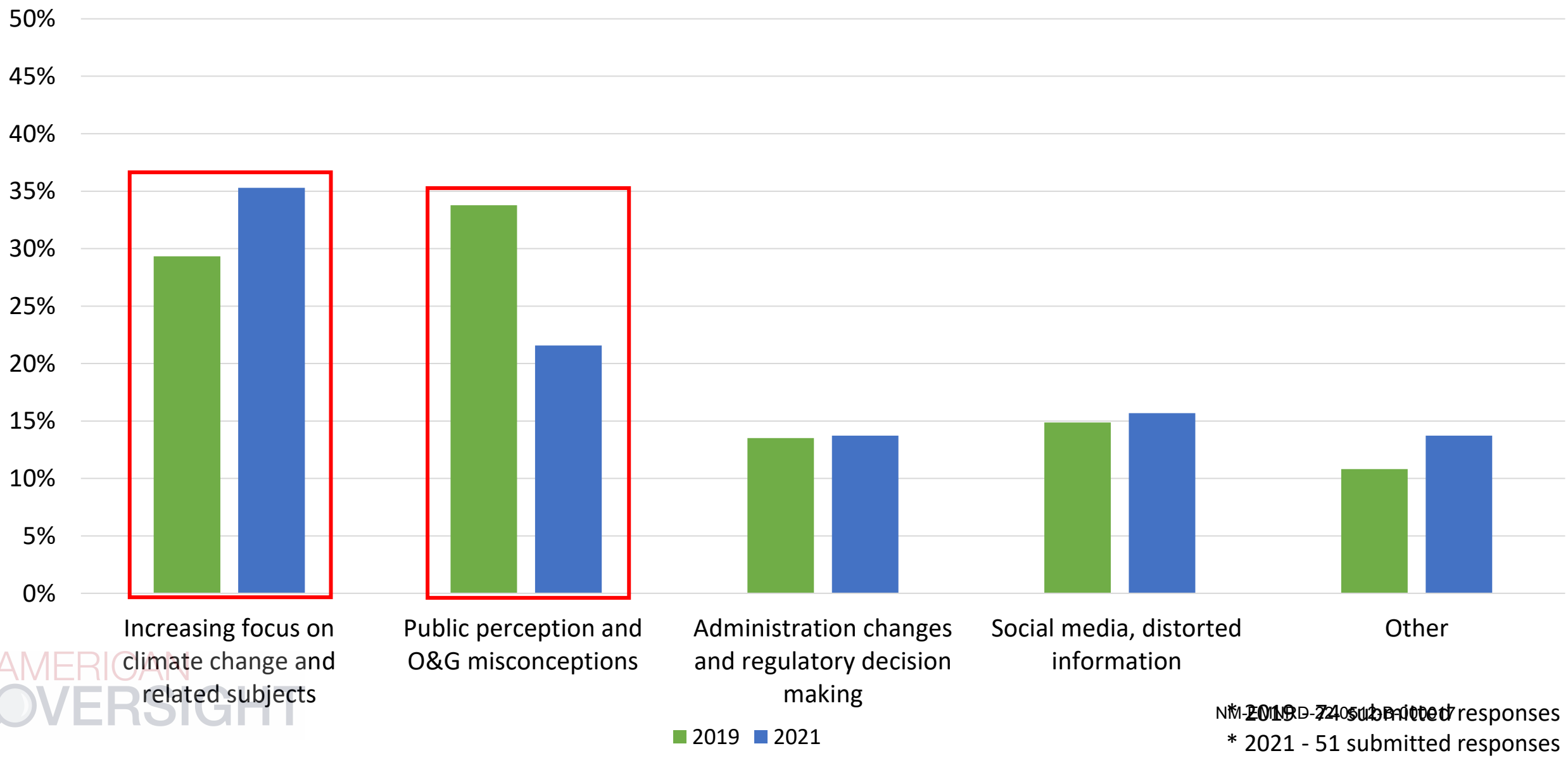
What Is Impacting Regulators Now



* 2019 - 74 submitted responses
* 2021 - 51 submitted responses

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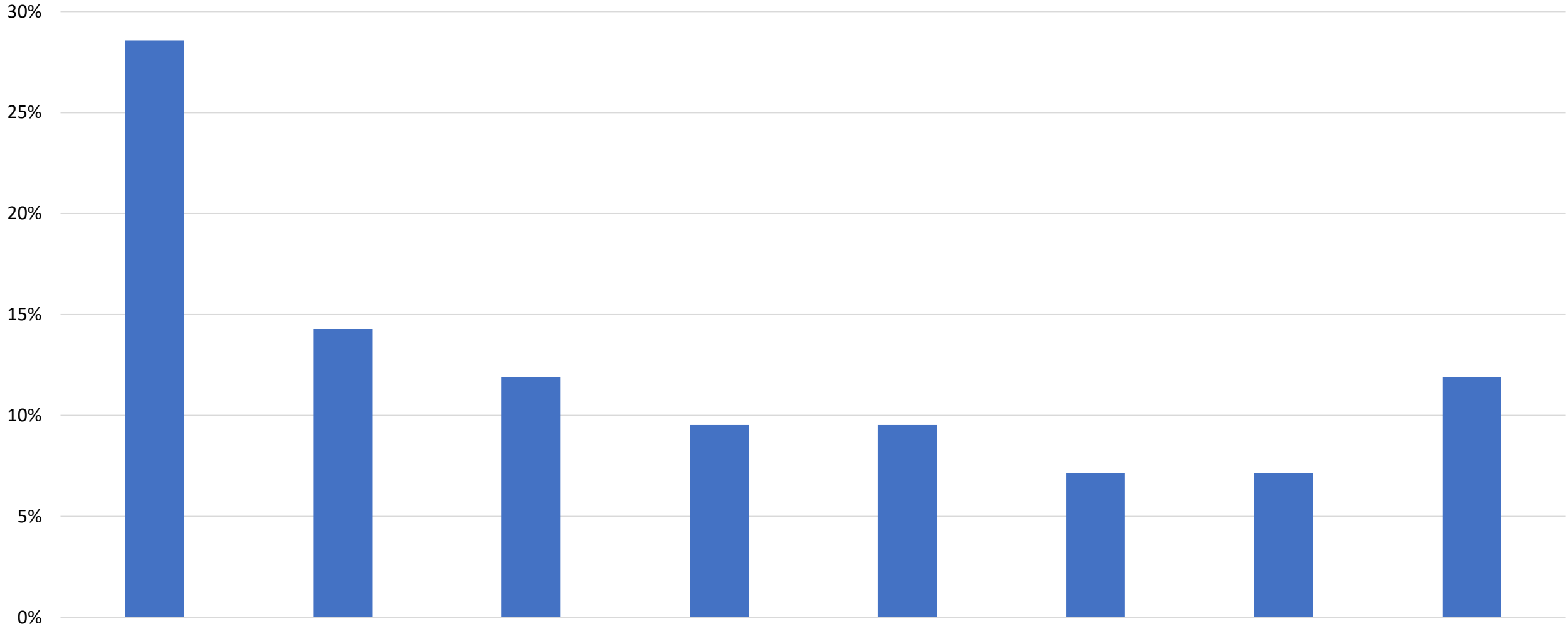
What Will Impact Regulators in 5 Years



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NM-EMNRD-22-0512-B-000018

* 49 submitted responses

IOGCC Mission and Vision

Mission

IOGCC is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment.

Vision

IOGCC will be viewed as the authority on domestic oil and gas issues. The programming and services of the Commission will be developed around emerging issues, so that the IOGCC is a leader and a driver of national oil and gas policy.

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IOGCC Mission Statement

- Does the mission statement continue to represent our organization and efforts?
  - 49 respondents answered this question.
  - 78% answered yes.
  - A few suggested additions that may be addressed in goals and objectives.
  - Responses printed on handout.

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Development of Strategic Plan

- Is there anything else IOGCC should consider in developing a strategic plan?
  - 32 respondents answered this question.
  - Responses printed on handout.

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Thank you!

Questions?

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Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division

NOTICE

INFORMATION ON C-115Bs and C-115s INCLUDING FREQUENTLY ASKED QUESTIONS, REPORTING CODES AND CALCULATION METHODS.

April 19, 2022

As part of ongoing stakeholder engagement, the Oil Conservation Division ("OCD") provides guidance, information, and answers Frequently Asked Questions ("FAQs") regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This FAQ and Guidance specifically addresses C-115B reporting and its relationship to C-115 reporting.

Going forward, OCD will release additional and/or updated FAQs and Guidance as necessary. To help identify areas where such additional guidance would be helpful, please continue to submit questions to: OCD.Engineer@state.nm.us

Disclaimer

This information is guidance only and is not legally binding, does not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend this information any time, for any reason, and without notice.

C-115 Production Reporting

Question #1 What should be reported as gas produced on the C-115?
All gas produced from the well is required to be reported on the C-115 and is regulated by 19.15.19.9 NMAC. The disposition codes may vary depending on how the gas is being used. All Disposition Codes should be accurately reported and accounted for on the production side of the C-115. Balancing of the total production and disposition codes is crucial when reporting the C-115 as it affects both the C-115 and the C-115B reporting, which ultimately informs operator baselines and compliance with our rules.

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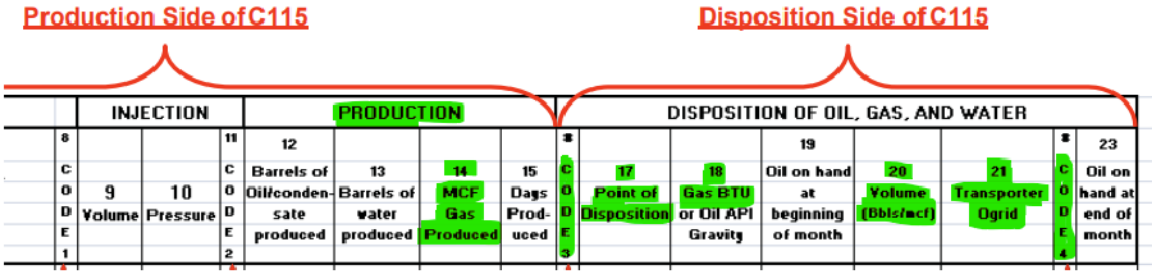
NM-EMNRD-22-0512-B-000023

There are no exceptions, all gas types should be properly reported on both the production and disposition side of the C-115.

Example: Gas reported as vented from pneumatics, maintenance, gas lift and stock tanks needs to be included in both the Production side (Column 14) and the Disposition side of the C-115 (Columns 16, 17, 18, 20 and 22). An example of the proper columns is highlighted below.



Rule Citation

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. *The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.*

C-115 and C-115B Reporting Correlation

Question #2: How should pneumatics and Stock tank vapors be reported on the C-115?

Gas reporting of pneumatic devices and tank vapors on the C-115 is regulated by 19.15.19.9 NMAC. All gas produced from the well is required to be reported. The disposition codes may vary depending on how the gas is being used. Gas from pneumatics should be reported on the disposition code “used on lease” and gas vented from tanks should be reported as “gas vented”.

Question #3: How should Gas lift be reported on the C-115B and C-115?

For reporting on the C-115, all gas produced from the well is required to be reported, both on the production side and the disposition side. Gas from Gas Lift should be properly reported as produced gas from the well and then properly reported on the “Gas Lift” disposition code. If any gas from the gas lift is vented or flared during the process, the gas should be reported on the G disposition code in the C-115. Any gas that is part of the gas lift that is not reinjected should then be accurately reported in the C-115B.

Reporting to Other Agencies

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Question #4: How should an Operator report to the State Land Office (SLO) pursuant to 19.15.27.8.G(4) NMAC?

Operators should work with the SLO to understand the format they would like the information submitted.

Reporting Gas volumes.

Question #5: How should operators round gas volumes on the C-115B that are less than 1 MCF?

We understand that operators may be utilizing standard rounding principles when they report. That approach is fine in the interim; however, OCD is looking at this issue and will provide additional guidance, if necessary.

Question #6: How is the OCD going to handle gas volumes that are amended on the C-115 or C-115B after the baseline percentages are established, specifically if that amendment will change the baseline percentage?

OCD is evaluating potential long-term solutions that will require written verifications prior to changing a baseline percentage. Once finalized, OCD will announce the change and any associated process.

Question #7 If an operator doesn't vent or flare gas do they still need to file a C-115B?

Yes. The reporting obligation applies to any New Mexico operator with qualifying wells or facilities, regardless of if sites vented or flared in the covered reporting period. Operators should report 0 for a well or facility reporting category if there has been no venting or flaring during the reporting time period. However, prior to reporting zeros ensure your operations do not vent or flare, including from sources like stock tanks, maintenance events, pneumatics, etc. See Well and Facility Reporting Rules in the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/.

Question #8 Where is the change of custody point for C-115Bs for Upstream vs Midstream

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Operations upstream of the sales meter are regulated under Part 27; Operations downstream of the sales meter are regulated under Part 28.

Question #9 How do operators report on the C-115B, or where can we access the form?

Please see the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/

Question #10 What are OCD's guidelines on methods used to estimate volumes?

The OCD rules state Operators "may estimate the volume of vented or flared natural gas using a methodology that can be independently verified". OCD recommends using methods that are accepted in industry and independently verifiable by a third-party

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reviewer. Some methodologies may be standards or formulas from organizations such as API, EPA, or other similar tools.

C-115 and C-115B Reporting Code Crosswalks

Below is a basic description of the C-115 Non-Transported Disposition codes and a crosswalk on how the disposition codes relate between the C-115 and C-115B.

C-115 Non-Transported Disposition Codes.

Code	Code Title	Brief Description
F	Flaring	For gas that is flared
G	Gas Lift	For gas from Gas Lift
L	Lost	Gas unintentionally vented (Typically due to a malfunction or emergency)
R	Repressurizing	When repressurizing a well or system
U	Used on Property	Gas used beneficially onsite
V	Venting	Gas intentionally vented onsite
O	Other	Any item not described above.

Code Crosswalk

C-115B Codes	C-115 Gas Disposition Codes
Beneficial Use	Used on Property
Emergency: 19.15.27.8(G)(2)(a) NMAC	Lost
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Used on Property
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Venting or Flared
Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC	Venting or Flared

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Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC	Venting or Flared- for Maintenance, Lost- for a Malfunction.
Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC	Venting or Flared
Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC	Venting or Flared
Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC	Venting or Flared
Storage Tanks: 19.15.27.8(G)(2)(f) NMAC	Venting or Flared
Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC	Venting or Flared
Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC	Lost
Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC	Venting or Flared

C-115B Visual Equations based on 19.15.27 and 19.15.28 NMAC

Rule Citation
19.15.27.8(G)(3) "Upstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall deduct the volume of natural gas sold, used for beneficial use, vented or flared during an emergency, and vented or flared because it was not suitable for transportation or processing due to N_2, H_2S, or CO_2 concentrations, vented as a result of normal operation of pneumatic controllers and pumps if reported pursuant to Subparagraph (i) of Paragraph (2) of Subsection G of 19.15.27.8 NMAC, or vented or flared from an exploratory well with division approval from the natural gas produced.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection G of 19.15.27.8 NMAC from the total volume of natural gas produced and divide by the total volume of natural gas produced.*

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Equation:

(a) Lost Natural Gas (Volumetric) = OGRID total produced gas volume – gas sold – beneficial use – emergency use – not suitable for transport (excludes O2) – normal operations (pneumatics) – exploratory well volumes

(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115) - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115)}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Volume Natural Gas Sold	Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC
Beneficial Use	Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC
Emergency: 19.15.27.8(G)(2)(a) NMAC	Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Storage Tanks: 19.15.27.8(G)(2)(f) NMAC
	Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC
	Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC
	Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC

Rule Citation
19.15.28.8 (F)(3) "Midstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall sum the volume of natural gas reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.*

Equation:

(a) Lost Natural Gas (Volumetric) = non-scheduled maintenance or malfunction + routine repair and maintenance + gathering pipeline blowdown and purging + gathering pipeline pigging + storage tanks + improperly closed or maintained thief hatches + other surface waste

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(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ gathered\ gas\ volume - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ gathered\ gas\ volume}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Emergency: 19.15.28.8(F)(2)(a) NMAC	**Non-Scheduled Maintenance or Malfunction: 19.15.28.8(F)(2)(b) NMAC**
Beneficial Use: 19.15.28.8(F)(2)(d) NMAC	**Routine Repair and Maintenance: 19.15.28.8(F)(2)(c) NMAC**
Venting as Result of Normal Operation of Pneumatic Controllers and Pumps: 19.15.28.8(F)(2)(h) NMAC	**Gathering Pipeline Blowdown and Purging: 19.15.28.8(F)(2)(e) NMAC**
	Gathering Pipeline Pigging: 19.15.28.8(F)(2)(F) NMAC
	Storage Tanks: 19.15.28.8(F)(2)(g) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.28.8(F)(2)(i) NMAC
	Other Surface Waste: 19.15.28.8(F)(2)(j) NMAC

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From: Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Sent: Tuesday, June 08, 2021 3:15 PM EDT
To: Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Subject: [EXT] IOGCC Special Meeting, August 15-17, 2021, Colorado Springs, CO
Attachment(s): "2021 Special Meeting Plan.pdf"

Good Afternoon IOGCC Official Representatives,

To assist us in planning, please let me know by**Friday, June 18, 2021**, who will be representing your state at the meeting. Also, please indicate whether you or your representative will be needing a scholarship to assist with travel expenses.

For those attending on scholarship, we will follow up to make flight and room reservations.

Otherwise, you will make your own reservations at the Cheyenne Mountain Resort through the link below. The deadline for reservations at the group rate will be **Friday, July 16, 2021**. The group rate is $199 plus taxes and fees, including a reduced resort fee of $14.

These rates are incredibly good for this time of year so make your reservations as soon as possible to secure your reservations, especially if you plan to arrive early and/or stay later.

IOGCC Special Meeting

Welcome to Cheyenne Mountain, A Dolce Resort by Wyndham
YOUR JOURNEY TO QUINTESSENTIAL COLORADO STARTS HERE
book.passkey.com

Special Meeting of IOGCC Official Representatives
Colorado Springs, CO
August 15-18, 2021

Scheduling

Cheyenne Mountain Resort (www.cheyennemountain.com).

A day and a half of meetings. Opening reception and dinner on Sunday evening. Working sessions on Monday and Tuesday morning. Adjourn in time for Tuesday afternoon departures.

Agenda

Primary agenda item will be a strategic visioning and action planning session. A facilitator will be engaged for this item.

Other business items may be addressed as determined by the Chair.

Participants

The official representative or a designated alternate of each member state or associate member state.

Invitations will be extended to official representatives of affiliates and to standing committee chairs and vice-chairs.

Due to the limited number of participants and the availability of scholarships, current plans do not include remote attendance. [If travel restrictions related to the pandemic affect a significant number of participants, remote attendance may be offered for some sessions.]

Budget and contingencies

To be considered and accounted for as an add-on to the 2021 Annual Business Meeting.

A scholarship will be available to the official representative or designated alternate of each member state or associate member state. The scholarship will cover airfare and room for two nights, plus additional travel expenses on a case-by-case basis.

Meals provided will include a reception and dinner on Sunday evening, breakfast and lunch on Monday, and breakfast on Tuesday.

The force majeure clause of the hotel contract will cover cancellation due to the pandemic.

AMERICAN OVERSIGHT

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, May 16, 2022 3:19 PM EDT
To: Nick Tew <ntew@gsa.state.al.us>; Jeremy Price <Jeremy.price@alaska.gov>; Frank Thorwald <FrankThorwald@thorwaldgroup.com>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Jeff Robbins <jeff.robbins@state.co.us>; Mick Thomas <mthomas@idl.idaho.gov>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; William S. Daugherty <billd@blackridgeusa.com>; Adam W. Wygant <wyganta@michigan.gov>; Jones, Benjamin <BJones@mt.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn D. Helms <lhelms@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; jim.wright@rrc.texas.gov <jim.wright@rrc.texas.gov>; johnrogers@utah.gov <johnrogers@utah.gov>; Charlie Burd <cburd@gowv.com>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Ines Piccinino <ines.piccinino@bcogc.ca>; michelle.carr@bcogc.ca <michelle.carr@bcogc.ca>
CC: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] 2022 IOGCC Annual Business Meeting - Business Session
Attachment(s): "2022 IOGCC Annual Business Meeting - Business Session Packet.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

I have attached the Business Session packet for tomorrow's meeting. For those of you joining us in person, you will receive a hard copy of the packet tomorrow.

Please let me know if you have any questions.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829

AMERICAN OVERSIGHT

INTERSTATE Oil & Gas COMPACT COMMISSION

AGENDA
BUSINESS SESSION
IOGCC 2022 ANNUAL BUSINESS MEETING
Skirvin Hilton, Grand Ballroom D-F
Oklahoma City, Oklahoma
Tuesday, May 17, 2022
10:30 AM-12:00 PM CT

1. Call to Order and Roll Call	Kenneth Wagner
2. Approval of Previous Business Session Minutes	Kenneth Wagner
3. Executive Director's Report	Lori Wrotenbery
4. Operational Committee Reports	
a. Finance Committee	Lynn Helms
i. Member Assessments	
b. Nominating Committee	Adam Wygant
i. Election of Officers for 2023	
c. Resolutions Committee	Lawrence Bengal
i. Proposed Resolutions	
ii. Sunset Review of Resolutions	
d. Steering Committee	Kenneth Wagner
i. Strategic Plan	
ii. Orphan Well Task Force	
5. Council and Standing Committee Reports	
a. Council of Regulatory Officials	Dave Hardie
b. Council of Oil and Gas Attorneys	Ryan Hoffman
c. Energy Resources, Research and Technology	Adam Peltz
d. Environment and Safety	Leslie Savage
e. Legal and Regulatory Affairs	Reice Haase
f. Public, Coastal, and Indigenous/Tribal Lands	Virginia Hullinger
g. Public Outreach	Katie Haarsager
6. Other Business	Kenneth Wagner
a. Upcoming Meetings	
b. Election of Directors for Energy Education Partnership, Inc. (EEPI)	
7. Adjourn	

AMERICAN OVERSIGHT

MINUTES
BUSINESS SESSION
IOGCC 2021 ANNUAL CONFERENCE
Inn at Loretto, Zuni Ballroom
Santa Fe, New Mexico
Tuesday, November 9, 2021
11:00 AM MT

Alabama—Berry "Nick" Tew, Official Representative
Alaska—Jeremy Price, Official Representative
Alberta—David Hardie, Associate Official Representative*
Arizona—Frank Thorwald, Official Representative
Arkansas—Lawrence Bengal, Official Representative
British Columbia—Ines Piccinino, Associate Official Representative*
Colorado—Jeff Robbins, Official Representative
Idaho—Mick Thomas, Official Representative
Illinois—Daniel Brennan, Official Representative
Indiana—Russell Retherford, Official Representative
Kansas—Susan Duffy, Official Representative
Michigan—Adam Wygant, Official Representative
Montana—Tom Richmond, Official Representative
Nebraska—Stan Belieu, Official Representative
Nevada—Michael Visher, Official Representative
New Mexico—Adrienne Sandoval, Official Representative
New York—Catherine Dickert, Associate Official Representative
North Dakota—Lynn Helms, Official Representative
Oklahoma—Robyn Strickland, Associate Official Representative
Pennsylvania—Scott Perry, Official Representative
Texas—Wayne Christian, Official Representative
Utah—John Baza, Official Representative
West Virginia—Charlie Burd, Official Representative

*Affiliates (non-voting)

1. Call to Order and Welcome **Wayne Christian**

Wayne Christian of Texas, Vice-Chair of IOGCC, called the meeting to order at 11:05 AM MT and asked for a roll call of the members present. Upon completion of the roll call, it was determined that 21 member states were present, which constituted a quorum.

2. Approval of Previous Business Session Minutes **Wayne Christian**

Vice-Chair Christian called attention to the minutes of the two previous meetings: the Business Session held by videoconference on May 18, 2021, and the Special Meeting held in Colorado Springs, Colorado, on August 15-17, 2021. He asked if there were any additions or corrections. Hearing none, he deemed the minutes approved as presented.

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3. Executive Director's Report — Lori Wrotenbery

Executive Director Lori Wrotenbery expressed appreciation to everyone for their contributions to an outstanding conference. She thanked the council and committee chairs for putting together an excellent program and the speakers for sharing their knowledge and insights. She stated her intent to convey our gratitude to Governor Stitt for making a special trip to participate in the General Session. She echoed the many expressions of thanks extended to the State of New Mexico for hosting the conference. Finally, she thanked IOGCC staff members, Amy Childers and Kaitlyn Smith, and IOGCC's meeting planner, Bea Ann Phillips, for their support.

Ms. Wrotenbery asked everyone to stayed tuned for more meetings on the new federal funding for plugging orphan wells. IOGCC will be hosting multiple virtual sessions to assist states in making effective use of that funding.

4. Strategic Plan — Lori Wrotenbery

The members present received copies of the latest draft of the strategic plan. No action was taken. The commission will consider approval of the strategic plan at a later meeting.

5. Operational Committee Reports

a. Finance Committee — Lynn Helms

Lynn Helms of North Dakota, Chair of the Finance Committee, reported on the meeting of the Finance Committee held on Sunday, November 7, 2021. He directed attention to the written report prepared by the Finance Committee, which included a proposed 2022 operating budget and capital improvements. He then highlighted key elements of the proposal.

> Motion by Mr. Helms to approve the 2022 operating budget and capital improvements.
> Motion seconded by Frank Thorwald of Arizona.
> Motion passed unanimously.

Mr. Helms noted that the auditor issued a clean opinion on IOGCC's 2020 financial statements.

b. Resolutions Committee — Lawrence Bengal

Lawrence Bengal of Arkansas, Chair of the Resolutions Committee, presented the committee report. The committee met by virtually on Thursday, October 21, 2021, and then in Santa Fe on Monday, November 8, 2021.

Before addressing one proposed new resolution, Mr. Bengal noted the committee considered two existing resolutions, Resolution 17.101 and Resolution 19.081, which were due for a two-year sunset review. The committee determined those resolutions should continue in effect pending further review in another two years.

Mr. Bengal then addressed proposed Resolution 21.111, sponsored by Texas, Urging the President of the United States and Congress Not to Adopt Legislation Establishing Harmful Oil and Gas Policies. Following the committee meeting on October 21, 2021, Mr. Bengal amended the proposed resolution with input from committee members and concurrence of the sponsor.

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The amended resolution was circulated to the official representatives as a substitute. The committee made additional amendments at its meeting on November 8, 2021.

Motion by Mr. Bengal to adopt Resolution 21.111 as amended.
Motion seconded by Charlie Burd of West Virginia.
Motion passed.

Voting yes: Alabama, Alaska, Arizona, Arkansas, Idaho, Indiana, Kansas, Montana, Nebraska, North Dakota, Oklahoma, Texas, Utah, and West Virginia.

Voting no: Colorado, Illinois, Nevada, New Mexico, New York, and Pennsylvania.

Abstaining and therefore considered not present: Michigan

c. Nominating Committee Report **Kenneth Wagner**

The Nominating Committee did not meet at the Annual Conference. Ms. Wrotenbery directed the commission's attention to her memorandum calling for volunteers for membership on the IOGCC operational committees. The Nominating Committee will meet to make recommendations to Governor Stitt, who makes the appointments.

d. Steering Committee Report **Wayne Christian**

Vice-Chair Christian noted that the 2022 Annual Business Meeting will be held in Oklahoma City in May. He asked anyone whose state would be interested in hosting the 2022 Annual Conference next fall to please let Ms. Wrotenbery know.

6. Council and Standing Committee Reports

The members heard reports from the councils and committees on their sessions.

a. Council of Regulatory Officials	**David Hardie**
b. Council of Oil and Gas Attorneys	**Ryan Hoffman**
c. Energy Resources, Research and Technology	**Adam Peltz**
d. Environment and Safety	**Robyn Strickland**
e. Legal and Regulatory Affairs	**Amy Childers**
f. Public, Coastal and Tribal Lands	**Sara Longan**
g. Public Outreach	**Travis McCormick**

7. Welcome of 2022 Officers

Ms. Wrotenbery presented a gift to outgoing Vice-Chair Wayne Christian and expressed IOGCC's appreciation for his service. She also welcomed incoming Vice-Chair Ken Wagner and incoming Second Vice-Chair Adam Wygant.

8. Adjourn

With its business concluded, the commission adjourned the meeting at 11:36 AM MT.

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IOGCC

2022 ANNUAL BUSINESS MEETING

Finance Committee Report

INTERSTATE
Oil & Gas
COMPACT COMMISSION

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ASSESSMENT REPORT 2022								
	2022 Amount	Month To Invoice	2022 Invoice #	2022 Amt Rec'd	2022 Date Rec'd	2022 Outstanding Assessments	2021 Outstanding Assessments	Year of Last Payment (If Past Due)
Member States								
Alabama	$10,000	January	2022-101	$10,000	02.09.22			
Kentucky	$10,000	January	2022-102	$10,000	03.31.22			
Montana	$10,000	January	2022-103	$10,000	03.02.22			
New York	$7,500	January	2022-104	$7,500	04.13.22			
Wyoming	$45,000	January	2022-107	$45,000	03.16.22			
California	$37,500	February	2022-108	$37,500	03.14.22			
Colorado	$45,000	March	2022-114			$45,000		
Kansas	$35,000	March	2022-113	$35,000	03.31.22			
Nebraska	$9,250	March	2022-112	$9,250	03.14.22			
New Mexico	$45,000	April	2022-126			$45,000		
Idaho	$7,500	April	2022-128	$7,500	04.25.22			
Florida	$7,500	May				-	-	>10 Years
South Dakota	$7,500	May				-	-	2014
Indiana	$7,500	June					$7,500	2020
North Dakota	$45,000	June						
Pennsylvania	$45,000	June						
Utah	$35,000	June						
Virginia	$10,000	June					$10,000	2020
Alaska	$37,500	July						
Arizona	$7,500	July					$7,500	2015
Arkansas	$35,000	July						
Illinois	$10,000	July						
Maryland	$7,500	July						
Mississippi	$10,000	July						
Nevada	$7,500	July						
Ohio	$45,000	July						
Oklahoma	$45,000	July						
West Virginia	$37,500	July						
Texas	$55,000	September						
Michigan	$10,000	October						
Louisiana	$45,000	October					$45,000	2020
Subtotal	**$771,750**							
Associate Member States								
North Carolina	$2,500	April	2022-125			$2,500	$2,500	2018
Tennessee	$2,500	June					$2,500	>10 Years
Georgia	$2,500					-	-	>10 Years
Missouri	$2,500					-	-	>10 Years
Oregon	$2,500					-	-	>10 Years
South Carolina	$2,500					-	-	>10 Years
Washington	$2,500					-	-	>10 Years
Subtotal	**$17,500**							
International Affiliates								
Nova Scotia	$6,000	January	2022-105	$6,000	03.21.22			
Saskatchewan	$6,000	January	2022-106			$6,000		
British Columbia	$6,000	June						
Alberta	$6,000	October						
Newfoundland	$6,000					-	-	2012
NW Territories	$6,000					-	-	New Member
Yukon Territory	$6,000					-	-	2017
Subtotal	**$42,000**							
Total	**$831,250**			**$177,750**		**$98,500**	**$75,000**	

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DRAFT—For Discussion Purposes Only

Key to Assessments for 2023-2024

Assessment for Member States:

Each member state will be assessed based on the state's percentage of the total oil and gas production (in barrels of oil equivalent) in the member states in [the most recent year for which data is available].[1]

Tiers for Member States:[2]

Production Percentage	Annual Assessment
0.000—0.074	$ 7,500
0.075—0.400	$10,000
0.401—0.750	$22,500
0.751—2.000	$35,000
2.001—4.000	$37,500
4.001—20.000	$47,000
20.001+	$64,000

In developing this discussion draft, the Finance Committee observed the following guidelines:[3]

- Gas volumes are based on marketed sales rather than gross withdrawals consistent with the voting provisions of the IOGCC Bylaws.
- Normalized production figures are drawn from reports of the Energy Information Administration.
- Gas is converted to barrels of oil equivalent using a conversion factor of 6 mcf/bbl.
- No member state's assessment is reduced below the current level.

Assessment for Associate Member States: $2,500[4]
Assessment for International Affiliates: $6,000[5]

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[1]Discussion draft uses 2019-2020 data shown in the attached worksheets. Worksheets will be updated when 2021 data becomes available this fall.
[2]Table is the one approved by the Commission for the 2021-2022 assessments, except the assessment for the highest tier increases from $55,000 to $64,000 and for the next tier increases from $45,000 to $47,000.
[3] The same guidelines were approved by the Commission for the 2021-2022 assessments.
[4] No change.
[5] No change.

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ASSESSMENT EVALUATION WORKSHEET 1
Interstate Oil and Gas Compact Commission
Based on Production

	2018	2018	2019	2019	2020	2020	2021-2022	2021-2022	2023-2024	2023-2024
	000's of BOE	% Total Production	000's of BOE	% Total Production	000's of BOE	% Total Production	Assessment	Assessment %	Assessment	Assessment %
Member State	Total Oil Equivalent	Oil Equivalent	Total Oil Equivalent	Oil Equivalent	Total Oil Equivalent	Oil Equivalent				
Texas	2,916,924,333	33.635	3,400,983,167	35.100	3,321,298,833	35.223	55,000	7.127	64,000	7.938
Pennsylvania	1,041,588,333	12.011	1,156,022,500	11.931	1,220,203,167	12.941	45,000	5.831	47,000	5.829
Oklahoma	691,705,167	7.976	740,977,167	7.647	635,753,167	6.742	45,000	5.831	47,000	5.829
North Dakota	579,161,667	6.678	660,832,500	6.820	563,398,167	5.975	45,000	5.831	47,000	5.829
Louisiana	517,279,500	5.965	583,195,667	6.019	565,205,833	5.994	45,000	5.831	47,000	5.829
New Mexico	496,482,833	5.725	627,372,167	6.475	708,790,167	7.516	45,000	5.831	47,000	5.829
Colorado	483,037,667	5.570	521,159,167	5.379	499,292,000	5.295	45,000	5.831	47,000	5.829
Ohio	424,750,667	4.898	470,402,333	4.855	425,277,833	4.510	45,000	5.831	47,000	5.829
Wyoming	361,333,167	4.167	345,516,667	3.566	305,237,667	3.237	45,000	5.831	47,000	5.829
West Virginia	311,467,833	3.592	376,090,667	3.881	450,760,667	4.780	37,500	4.859	47,000	5.829
Alaska	231,686,833	2.672	224,839,667	2.320	220,238,833	2.336	37,500	4.859	37,500	4.651
California	202,934,167	2.340	194,286,833	2.005	172,467,333	1.829	37,500	4.859	37,500	4.651
Arkansas	103,347,000	1.192	92,061,833	0.950	85,088,000	0.902	35,000	4.535	35,000	4.341
Utah	86,532,500	0.998	82,004,500	0.846	71,865,000	0.762	35,000	4.535	35,000	4.341
Kansas	68,296,167	0.788	63,709,167	0.658	54,227,000	0.575	35,000	4.535	35,000	4.341
Alabama	29,128,500	0.336	26,536,500	0.274	23,576,500	0.250	10,000	1.296	10,000	1.240
Montana	28,793,000	0.332	30,177,333	0.311	25,425,167	0.270	10,000	1.296	10,000	1.240
Mississippi	22,880,167	0.264	22,430,167	0.231	18,814,833	0.200	10,000	1.296	10,000	1.240
Michigan	20,328,667	0.234	19,048,500	0.197	15,061,333	0.160	10,000	1.296	10,000	1.240
Virginia	18,583,500	0.214	17,731,500	0.183	17,137,333	0.182	10,000	1.296	10,000	1.240
Kentucky	16,260,833	0.188	15,484,333	0.160	14,102,167	0.150	10,000	1.296	10,000	1.240
Illinois	8,822,833	0.102	8,612,500	0.089	7,457,167	0.079	10,000	1.296	10,000	1.240
Indiana	2,525,167	0.029	2,419,667	0.025	2,095,833	0.022	7,500	0.972	7,500	0.930
New York	2,188,500	0.025	2,101,000	0.022	1,890,167	0.020	7,500	0.972	7,500	0.930
Nebraska	2,128,333	0.025	1,976,000	0.020	1,727,167	0.018	9,250	1.199	9,250	1.147
Florida **	1,971,333	0.023	1,830,167	0.019	1,479,167	0.016	7,500	0.972	7,500	0.930
South Dakota **	1,346,667	0.016	1,237,000	0.013	1,118,667	0.012	7,500	0.972	7,500	0.930
Idaho	398,000	0.005	193,167	0.002	18,000	0.000	7,500	0.972	7,500	0.930
Nevada	256,000	0.003	269,000	0.003	200,500	0.002	7,500	0.972	7,500	0.930
Arizona	19,667	0.000	19,833	0.000	13,167	0.000	7,500	0.972	7,500	0.930
Maryland	4,000	0.000	2,000	0.000	2,000	0.000	7,500	0.972	7,500	0.930
TOTALS	**8,672,163,001**	**100**	**9,689,522,667**	**100**	**9,429,222,834**	**100**	**771,750**	**100**	**806,250**	**100**

**Not billed in recent years.

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ASSESSMENT EVALUATION WORKSHEET 2
Interstate Oil and Gas Compact Commission
Based on Value for 2023-2024

	2018	2018	2019	2019	2020	2020	2021-2022	2021-2022	2023-2024	2023-2024
	Value in $	% Total Value	Value in $	% Total Value	Value in $	% Total Value	Assessment	Assessment %	Assessment	Assessment %
Member State							(Production-Based)		(Value-Based)	
Texas	123,515,514,900	40.245	126,693,325,660	42.142	84,405,365,430	41.796	55,000	7.127	64,000	7.938
Pennsylvania	19,961,249,500	6.504	18,020,293,710	5.994	14,996,284,410	7.426	45,000	5.831	48,000	5.953
Oklahoma	21,602,382,650	7.039	19,902,485,350	6.620	11,977,376,930	5.931	45,000	5.831	48,000	5.953
North Dakota	30,561,180,500	9.958	31,024,688,220	10.320	17,517,039,270	8.674	45,000	5.831	48,000	5.953
Louisiana	11,852,282,550	3.862	10,805,327,500	3.594	7,742,478,730	3.834	45,000	5.831	48,000	5.953
New Mexico	19,964,283,050	6.505	22,891,537,570	7.614	17,988,882,030	8.908	45,000	5.831	48,000	5.953
Colorado	16,686,634,400	5.437	15,636,917,410	5.201	10,153,576,560	5.028	45,000	5.831	48,000	5.953
Ohio	9,014,850,100	2.937	8,353,348,580	2.779	5,767,786,290	2.856	45,000	5.831	42,000	5.209
Wyoming	10,567,326,850	3.443	9,414,779,920	3.132	5,916,215,140	2.930	45,000	5.831	42,000	5.209
West Virginia	6,380,507,050	2.079	6,452,536,180	2.146	5,951,509,440	2.947	37,500	4.859	42,000	5.209
Alaska	11,807,923,650	3.847	10,290,464,860	3.423	6,726,351,670	3.331	37,500	4.859	42,000	5.209
California	11,024,968,250	3.592	9,480,706,850	3.154	5,663,234,800	2.804	37,500	4.859	42,000	5.209
Arkansas	2,166,523,300	0.706	1,599,570,290	0.532	1,139,781,040	0.564	35,000	4.535	35,000	4.341
Utah	3,210,684,250	1.046	2,735,748,510	0.910	1,660,189,060	0.822	35,000	4.535	35,000	4.341
Kansas	2,766,057,550	0.901	2,313,927,190	0.770	1,348,834,740	0.668	35,000	4.535	35,000	4.341
Alabama	800,471,150	0.261	603,078,210	0.201	387,658,730	0.192	10,000	1.296	10,000	1.240
Montana	1,459,595,200	0.476	1,387,486,250	0.462	782,423,930	0.387	10,000	1.296	10,000	1.240
Mississippi	1,152,937,650	0.376	1,023,569,530	0.340	577,794,350	0.286	10,000	1.296	10,000	1.240
Michigan	614,051,800	0.200	497,476,350	0.165	288,164,280	0.143	10,000	1.296	10,000	1.240
Virginia	351,398,150	0.114	272,516,760	0.091	208,732,720	0.103	10,000	1.296	10,000	1.240
Kentucky	403,592,250	0.132	338,575,280	0.113	227,689,270	0.113	10,000	1.296	10,000	1.240
Illinois	524,601,550	0.171	463,944,120	0.154	267,290,290	0.132	10,000	1.296	10,000	1.240
Indiana	119,253,150	0.039	100,689,250	0.033	59,980,530	0.030	7,500	0.972	7,500	0.930
New York	50,797,650	0.017	43,294,380	0.014	29,809,230	0.015	7,500	0.972	7,500	0.930
Nebraska	127,605,500	0.042	107,271,120	0.036	61,666,780	0.031	9,250	1.199	9,250	1.147
Florida **	115,458,200	0.038	96,663,280	0.032	51,655,090	0.026	7,500	0.972	7,500	0.930
South Dakota **	79,554,500	0.026	65,988,960	0.022	39,564,040	0.020	7,500	0.972	7,500	0.930
Idaho	11,262,200	0.004	3,811,870	0.001	219,240	0.000	7,500	0.972	7,500	0.930
Nevada	15,718,400	0.005	14,953,710	0.005	7,353,410	0.004	7,500	0.972	7,500	0.930
Arizona	881,700	0.000	666,710	0.000	209,730	0.000	7,500	0.972	7,500	0.930
Maryland	75,600	0.000	30,720	0.000	24,360	0.000	7,500	0.972	7,500	0.930
TOTALS	**306,909,623,200**	**100**	**300,635,674,300**	**100**	**201,945,141,520**	**100**	**771,750**	**100**	**806,250**	**100**

**Not billed in recent years.

NM-EMNRD-22-0512-B-000041

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ASSESSMENT EVALUATION WORKSHEET 3
Interstate Oil and Gas Compact Commission
Flat Rate

	2021-2022 Assessment	2021-2022 Assessment %	2023-2024 Base Assessment*	2023-2024 Base Assessment %
Member State				
Texas	55,000	7.127	26,000	3.226
Pennsylvania	45,000	5.831	26,000	3.226
Oklahoma	45,000	5.831	26,000	3.226
North Dakota	45,000	5.831	26,000	3.226
Louisiana	45,000	5.831	26,000	3.226
New Mexico	45,000	5.831	26,000	3.226
Colorado	45,000	5.831	26,000	3.226
Ohio	45,000	5.831	26,000	3.226
Wyoming	45,000	5.831	26,000	3.226
West Virginia	37,500	4.859	26,000	3.226
Alaska	37,500	4.859	26,000	3.226
California	37,500	4.859	26,000	3.226
Arkansas	35,000	4.535	26,000	3.226
Utah	35,000	4.535	26,000	3.226
Kansas	35,000	4.535	26,000	3.226
Alabama	10,000	1.296	26,000	3.226
Montana	10,000	1.296	26,000	3.226
Mississippi	10,000	1.296	26,000	3.226
Michigan	10,000	1.296	26,000	3.226
Virginia	10,000	1.296	26,000	3.226
Kentucky	10,000	1.296	26,000	3.226
Illinois	10,000	1.296	26,000	3.226
Indiana	7,500	0.972	26,000	3.226
New York	7,500	0.972	26,000	3.226
Nebraska	9,250	1.199	26,000	3.226
Florida **	7,500	0.972	26,000	3.226
South Dakota **	7,500	0.972	26,000	3.226
Idaho	7,500	0.972	26,000	3.226
Nevada	7,500	0.972	26,000	3.226
Arizona	7,500	0.972	26,000	3.226
Maryland	7,500	0.972	26,000	3.226
TOTALS	**771,750**	**100**	**806,000**	**100**

*Base assessment may need to be adjusted to account for projected rate of nonpayment.
**Not billed in recent years.

NM-EMNRD-22-0512-B-000042

ASSESSMENT EVALUATION WORKSHEET 4
Interstate Oil and Gas Compact Commission
Comparison

	2021-2022	2021-2022	2023-2024	2023-2024	2023-2024	2023-2024	2023-2024	2023-2024
	Assessment	Assessment %	Assessment	Assessment %	Assessment	Assessment %	Assessment	Assessment %
Member State	Production Based	Production Based	Production-Based	Production Based	Value Based	Value Based	Flat Rate	Flat Rate
Texas	55,000	7.127	64,000	7.938	64,000	7.938	26,000	3.226
Pennsylvania	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
Oklahoma	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
North Dakota	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
Louisiana	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
New Mexico	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
Colorado	45,000	5.831	47,000	5.829	48,000	5.953	26,000	3.226
Ohio	45,000	5.831	47,000	5.829	42,000	5.209	26,000	3.226
Wyoming	45,000	5.831	47,000	5.829	42,000	5.209	26,000	3.226
West Virginia	37,500	4.859	47,000	5.829	42,000	5.209	26,000	3.226
Alaska	37,500	4.859	37,500	4.651	42,000	5.209	26,000	3.226
California	37,500	4.859	37,500	4.651	42,000	5.209	26,000	3.226
Arkansas	35,000	4.535	35,000	4.341	35,000	4.341	26,000	3.226
Utah	35,000	4.535	35,000	4.341	35,000	4.341	26,000	3.226
Kansas	35,000	4.535	35,000	4.341	35,000	4.341	26,000	3.226
Alabama	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Montana	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Mississippi	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Michigan	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Virginia	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Kentucky	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Illinois	10,000	1.296	10,000	1.240	10,000	1.240	26,000	3.226
Indiana	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
New York	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
Nebraska	9,250	1.199	9,250	1.147	9,250	1.147	26,000	3.226
Florida **	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
South Dakota **	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
Idaho	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
Nevada	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
Arizona	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
Maryland	7,500	0.972	7,500	0.930	7,500	0.930	26,000	3.226
TOTALS	**771,750**	**100**	**806,250**	**100**	**806,250**	**100**	**806,000**	**100**

**Not billed in recent years.

AMERICAN OVERSIGHT

INTERSTATE Oil & Gas COMPACT COMMISSION

BUSINESS SESSION
Tuesday, May 17, 2022
Nominating Committee Report—2022/2023 Officers

At its meeting on May 16, 2022, the Nominating Committee determined the following list of candidates for elective office:

Chair – Governor Mark Gordon (WY)

Vice-Chair – Adam Wygant (MI)

Second Vice-Chair – Tom Kropatsch (WY)

Executive Director – Lori Wrotenbery

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NM-EMNRD-22-0512-B-000044

RESOLUTION 22.051

Recognizing the Role of Natural Gas Production in Ensuring Reliability of Our Electric Grid

WHEREAS, the Interstate Oil and Gas Compact Commission (IOGCC) is one of the oldest and largest interstate compacts in North America, formed by states with participation of international affiliates, and is widely viewed as the authority on domestic oil and gas issues and as a leading force in national oil and gas policy development; and

WHEREAS, the IOGCC has historically and routinely provided advice to our respective nations' leaders in an ongoing effort to wisely maximize our nations' oil and gas resources for the benefit of our economies and national security; and

WHEREAS, the IOGCC recognizes that recent grid failures occurring after major weather events, or as a response to other externalities, have created concerns for the IOGCC member states and provinces about the dire consequences that ensue if our nation's interconnected electric generation resources are not available when needed; and

WHEREAS, the United States Energy Information Administration (EIA) reports that the U.S. has enough natural gas resources available for supplies to last approximately 98 years[1]; projects that over 100 gigawatts (GW) of North America's baseload electric generation facilities are scheduled to retire by 2039[2]; and indicates that less than 10 percent of power plant retirements are projected to be replaced with dispatchable baseload generation sources[3]; and

WHEREAS, over 1,694 terawatt hours are currently generated from natural gas in North America each year, accounting for over 35 percent of our electricity generation[4,5] and natural gas is projected to account for 70 percent of our baseload electricity generation by 2050[6]; and

WHEREAS, both power generation fuel sources and transmission are deficient for projected demand growth and natural gas resources are needed to provide dispatchable power to balance announced baseload plant retirements; and

---

[1] U.S. Energy Information Administration. Assumptions to the Annual Energy Outlook 2022: Oil and Gas Supply Module, March 2022.
[2] U.S. Energy Information Administration. Preliminary Monthly Electric Generator Inventory, January 2022.
[3] Ibid.
[4] U.S. Energy Information Administration. Electric Power Annual 2020, revised March 10, 2022.
[5] Canada Energy Regulator. Canada's Energy Future 2021, February 9, 2022.
[6] Ibid

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WHEREAS, although natural gas resources exist in abundance, the United States natural gas infrastructure systems constrain for transportation of the product in areas where infrastructure is lacking or areas where infrastructure exists but requires updates; and

WHEREAS, although the market share of intermittent sources continues to grow, natural gas, as a dependable and steady energy source, provides a remedy to shortages of dispatchable energy sources; and

WHEREAS, with proper infrastructure support, natural gas production may provide solutions for grid stabilization and overall function.

NOW, THEREFORE, BE IT RESOLVED THAT, the Interstate Oil and Gas Compact Commission hereby urges the Canada Energy Regulator, the Federal Energy Regulatory Commission, North American Regional Transmission Authorities, and Independent System Operators to consider natural gas's potential to strengthen grid reliability and resilience, to acknowledge and recognize the role of natural gas for reliability of our electric grid, to support investments in critical infrastructure, such as pipelines and power transmission lines, and to work with the IOGCC to better understand overall impact of natural gas across the energy industry and to ensure that the reliability of our electric grid remain the foremost priority in future energy planning.

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DRAFT RESOLUTION 22.051
ACTION PLAN

Pertaining to Recognizing the Role of Natural Gas Production Reliability of Our Electric Grid

1. Send copies of the resolution to the President, Vice President, Canadian Energy Regulator, Energy Information Agency, Federal Energy Regulatory Commission, Regional Transmission Organizations, Independent System Operators, and other key administrative officials.

2. Send copies of the resolution to Congressional leaders and testify before Congressional committees, if invited and as appropriate.

3. Monitor status of executive and legislative actions, advocate in Congress, and keep states informed and involved.

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INTERSTATE Oil & Gas COMPACT COMMISSION

2022-2024

Mission: The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery and storage of domestic oil and gas resources while protecting human health and safety and the environment.

Vision: The Interstate Oil and Gas Compact Commission will be viewed as the authority on domestic oil and gas issues. The strategies and services of the Commission will be developed around emerging issues, so that the IOGCC is a leader and a driver of national oil and gas policy.

GOAL AREAS – CORE COMPETENCIES			
STEWARDSHIP Fostering wise stewardship of domestic oil and gas resources.	**ENVIRONMENTAL PROTECTION** Protecting human health and safety and the environment while supporting responsible production and storage.	**ENGAGEMENT** Engaging with members, the public, and policymakers through education, knowledge sharing, listening, and advocacy.	**INNOVATION** Meeting challenges and seizing opportunities through innovation.
A. Recommend measures for **preventing physical waste** and promoting efficient recovery of oil and gas. B. Foster an understanding of oil and gas resources in relation to the **economy and national security**. C. Support the **lead role of the states** in ensuring the responsible development of oil and gas resources. D. Support **sufficient funding** of state programs and services.	A. Assist states to identify, evaluate, and implement processes for **continuous improvement** of programs and services that protect human health and safety and the environment. B. Support nationwide efforts to mitigate **environmental risks**. C. Assist the states in development of programs <u>for the safe</u> ~~that reduce environmental risks associated with the~~ **storage and distribution** of gases such as carbon dioxide and hydrogen. D. Assist states to identify, evaluate and implement processes to document and properly plug **idle and orphan wells,** and to reclaim and remediate the well sites and associated facilities.	A. Provide **opportunities for sharing** information, viewpoints, and best practices. B. **Communicate with and inform the public** about IOGCC and its member states, leveraging areas of concurrence and honoring areas of divergence between the states on energy issues. C. Convey to Congress, federal agencies, states, and stakeholders the policies and positions adopted by IOGCC through the **resolutions** process.	A. Drive the nation's energy future, particularly regarding oil and gas resources, by being a leader, convener, and collaborator seeking **innovative solutions**. B. Promote **research and development** of technologies for oil and gas recovery and environmental protection. C. Timely identify and address **emerging issues,** including funding and storage and distribution. D. Evaluate the contribution of **oil and gas and related resources and technology** as essential components of the <u>future</u> energy mix <u>with reduced emissions</u> ~~in a reduced carbon future~~<u>.</u>.

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INTERSTATE Oil & Gas COMPACT COMMISSION

2022-2024

Mission: The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery and storage of domestic oil and gas resources while protecting human health and safety and the environment.

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GOAL AREAS – CORE COMPETENCIES			
STEWARDSHIP Fostering wise stewardship of domestic oil and gas resources.	**ENVIRONMENTAL PROTECTION** Protecting human health and safety and the environment while supporting responsible production and storage.	**ENGAGEMENT** Engaging with members, the public, and policymakers through education, knowledge sharing, listening, and advocacy.	**INNOVATION** Meeting challenges and seizing opportunities through innovation.
A. Recommend measures for **preventing physical waste** and promoting efficient recovery of oil and gas. B. Foster an understanding of oil and gas resources in relation to the **economy and national security**. C. Support the **lead role of the states** in ensuring the responsible development of oil and gas resources. D. Support **sufficient funding** of state programs and services.	A. Assist states to identify, evaluate, and implement processes for **continuous improvement** of programs and services that protect human health and safety and the environment. B. Support nationwide efforts to mitigate **environmental risks**. C. Assist the states in development of programs for the safe **storage and distribution** of gases such as carbon dioxide and hydrogen. D. Assist states to identify, evaluate and implement processes to document and properly plug **idle and orphan wells,** and to reclaim and remediate the well sites and associated facilities.	A. Provide **opportunities for sharing** information, viewpoints, and best practices. B. **Communicate with and inform the public** about IOGCC and its member states, leveraging areas of concurrence and honoring areas of divergence between the states on energy issues. C. Convey to Congress, federal agencies, states, and stakeholders the policies and positions adopted by IOGCC through the **resolutions** process.	A. Drive the nation's energy future, particularly regarding oil and gas resources, by being a leader, convener, and collaborator seeking **innovative solutions**. B. Promote **research and development** of technologies for oil and gas recovery and environmental protection. C. Timely identify and address **emerging issues,** including funding and storage and distribution. D. Evaluate the contribution of **oil and gas and related resources and technology** as essential components of the future energy mix with reduced emissions.

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INTERSTATE Oil & Gas COMPACT COMMISSION

IOGCC ORPHAN WELL TASK FORCE

(A Special Committee of the Interstate Oil and Gas Compact Commission)

Background

The bipartisan Infrastructure Investment and Jobs Act (IIJA) provides funding to plug orphan wells, restore the well sites and adjacent land, and decommission associated pipelines and facilities on federal, state, private, and tribal lands. The twofold objective of this funding is to address the potential hazards of orphan wells while creating jobs for oil and gas workers.

The appropriations in the legislation include $4.275 billion in grants to state programs for work on state and private lands. With this funding, states will accelerate the work they are already doing with state funding. The federal funding will also enable states to identify and assess currently undocumented orphan wells with help from federal research and development.

IIJA was enacted on November 15, 2021. The Interstate Oil and Gas Compact Commission (IOGCC) immediately began working with the United States Department of the Interior (DOI) and Department of Energy (DOE) to assist the IOGCC member states in meeting two key deadlines set by Congress within the first six months after enactment.

Much has been accomplished within the first six months. Much more remains to be done to fully implement the law. Effective implementation will require a coordinated effort of the states, federal agencies, and tribal governments. IOGCC will continue to play a key role in ensuring federal agencies recognize the leadership of the states and work with the states in partnership.

Appointment and Term

Governor J. Kevin Stitt of Oklahoma, in his capacity as Chair of IOGCC, has appointed a special committee of IOGCC on implementation of the orphan well provisions of the IIJA. The special committee will be referred to as the IOGCC Orphan Well Task Force (Task Force).

As an IOGCC special committee, the Task Force will operate through the end of Governor Stitt's term as IOGCC chair. At the discretion of the next IOGCC chair, the term of the Task Force may be extended as needed.

Membership

The Task Force includes representatives of eight IOGCC-member states selected on a bipartisan basis consistent with the spirit of IOGCC and the IIJA. Governor Stitt has appointed

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NM-EMNRD-22-0512-B-000050

the following eight officials to serve on the Task Force, with the representatives of the States of New Mexico and North Dakota serving as co-chairs.

Jeremy Price
Chair
Alaska Oil and Gas Conservation Commission

Uduak-Joe Ntuk
State Oil and Gas Supervisor
Geologic Energy Management Division
California Department of Conservation

John Adams
Assistant Commissioner
Office of Conservation
Louisiana Department of Natural Resources

Adrienne Sandoval (Co-chair)
Director
Oil Conservation Division
New Mexico Energy, Minerals and Natural Resources Department

Lynn D. Helms (Co-chair)
Director
Department of Mineral Resources
North Dakota Industrial Commission

Eric P. Vendel
Chief
Division of Oil and Gas Resources Management
Ohio Department of Natural Resources

Kurt Klapkowski
Acting Deputy Secretary
Office of Oil and Gas Management
Pennsylvania Department of Environmental Protection

Wei Wang
Executive Director
Railroad Commission of **Texas**

Purpose and Scope

Task Force will provide a forum for the exchange of information, experience, and ideas, facilitate communication between the states, federal agencies, and tribal governments, and guide IOGCC's implementation efforts. Among the issues to be addressed by the Task Force will be:

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- Communication on the leadership role of the states in the implementation of the orphan well provisions of the IIJA.
- Establishment of an appropriate working relationship between the states and the federal agencies administering the IIJA grants for state programs.
- Strengthening of working relationships between state, federal, and tribal entities plugging orphan wells.
- Provision of training and other support needed by the states for effective implementation.
- Development of grant proposals for the $2 million appropriated to IOGCC in the IIJA.

The Task Force will determine the work products of the Task Force. The Task Force will report to and seek input from the IOGCC member and associate member states concerning the activities of the Task Force. The Task Force will also seek input and advice from experts in other state and federal agencies, industry, non-governmental organizations, and academia.

No action by the Task Force on a report, commentary, or finding shall constitute action of the Commission unless expressly approved by the Commission in accordance with the voting procedures of the IOGCC bylaws. The Task Force may make recommendations for action to the Commission, the Steering Committee, or other IOGCC committees. In the event of a tie vote of the Task Force, the matter will be referred to the Steering Committee for consideration.

If you need additional information on the Task Force, please feel free to contact Lori Wrotenbery, IOGCC Executive Director, at Lori.Wrotenbery@iogcc.state.ok.us or 405-522-8381.

AMERICAN OVERSIGHT

EEPI ENERGY EDUCATION PARTNERSHIP, INC.

BUSINESS SESSION
Tuesday, May 17, 2022
Energy Education Partnership, Inc. (EEPI)
2022/2023 Election of Board

Following is the slate of Directors for the EEPI Board:

Charlie Burd (WV)

Edward Cross (KS)

Wayne Christian (TX)

Larry Bengal (AR)

Eric Vendel (OH)

900 NE 23 Street, Oklahoma City, OK 73105

AMERICAN OVERSIGHT

Subject: [EXTERNAL] ACOI Discussion
Location: Microsoft Teams Meeting

Start: Thursday, January 06, 2022 5:00 PM EST
End: Thursday, January 06, 2022 5:30 PM EST
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Salazar, Louis C
Required Attendees: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Munds-Dry, Ocean (LDZX) <Ocean.Munds-Dry@conocophillips.com>; James, Michael A <Michael.A.James@conocophillips.com>; Maiorino, Brian <Brian.Maiorino@conocophillips.com>

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Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 281-810-1619,,702534843# United States, Houston
Phone Conference ID: 702 534 843#
Find a local number | Reset PIN

This meeting is hosted for ConocoPhillips using Office 365 technologies

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AMERICAN OVERSIGHT

From: Gahr, Jason Z <jason.z.gahr@exxonmobil.com>
Sent: Tuesday, February 01, 2022 5:17 PM EST
To: Jim Stovall <jim_stovall@blm.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Robert Baldridge (robert.baldridge@intrepidpotash.com) <robert.baldridge@intrepidpotash.com>
Subject: [EXTERNAL] Agreement to operate to revised R-111P (R111Q) standards
Attachment(s): "2012 Potash Secretarial Order.pdf","1987 NMOCD Order R111P_opt.pdf","2021-10-06 JITC Meeting Notes.pdf","JITC WIWG R111Q (revised R-111P) as of 4 Nov 2021.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Jim, Adrienne,

As you know, Order R-111P provides rules and regulations that govern the exploration and development of oil and gas in areas known to contain potash reserves in Southeastern New Mexico. Order R-111P was last updated in 1987 and does not account for more recent changes in drilling and completions methods and technologies.

A *Joint Industry Technical Committee* (JITC) was defined by Secretarial Order in 2012 as "A committee established by, and subject to the management control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other." This JITC was formed and has been active for a number of years to fulfill the purpose stated in the secretarial order.

In recent years the JITC formed a subcommittee called the *Well Integrity Working Group* (WIWG) which consists of knowledgeable experts in oil and gas and potash mining operations. The purpose of this group is to review and update the R-111P to ensure the rules and regulations promote safety, prevent waste, protect correlative rights, and assure maximum and economic recovery of oil, gas, and potash minerals.

The oil and gas operators and potash companies that participate in the Well Integrity Working Group and operate within the Known Potash Leasing Area (KPLA) have been meeting and working collaboratively since 2018 to make updates to the R-111P document. The revised R-111P for the purpose of clarity in this communication is hereafter referred to as the R-111Q.

During the October 6, 2021 JITC meeting held in Santa Fe New Mexico, it was determined that the R-111Q and changes therein were substantially agreed between oil and gas operators. In the same meeting, the two potash companies (Mosaic and Intrepid) communicated that while they recognized significant improvements and believed that the R-111Q provided the desired risk reduction, they requested that the WIWG consider commissioning a third party study to take place before full agreement and endorsement of the R-111Q document.

Because the timeline to perform a third party study is uncertain and because further delays in updating the rules and regulations of Order R-111P delay uniform adoption of practices and methods that further reduce safety risk, oil and gas operators drilling and completing wells within the KPLA have agreed to conduct operations to a higher standard than what is documented in the current R-111P document. This agreement to operate to the R-111Q represents a higher minimum standard with the intention to create a new floor for safety while allowing operators to continue to innovate and seek efficiencies.

The purpose of this email is to:

- **Convey the 4 November 2021 version of the R-111Q as requested by the BLM and NMOCD at the October 2021 JITC meeting.**
- **Confirm that starting February 1, 2022, oil and gas operators involved in the JITC and operating within the KPLA have agreed to voluntarily operate to the improved safety standards within the R-111Q .** For clarity, the operators that have agreed are ExxonMobil, EOG, Oxy, Chevron, Mewbourne, and Novo.

The WIWG is performing excellent work with a high degree of collaboration across the Potash and Oil & Gas industries. Within the year, it is anticipated that the WIWG will come to unanimous agreement on the R-111Q document and the JITC executive committee will convene to ratify and communicate the final document for use by the BLM and NMOCD. In the interim, industry will work to the standards as written in the 4 Nov R-111Q document. For clarity, each operator must continue to secure applicable approvals by the NMOCD or BLM.

Attached documents for your reference are:

- The original NMOCD Order R-111P
- The revised R-111P (named R-111Q for the purpose of this communication)
- The October 6, 2021 JITC meeting minutes outlining the decision by oil and gas operators to seek a higher standard
- The 2012 Potash Secretarial Order describing the composition and purpose of the JITC from which the R-111Q has been created

Regards,

Jason Gahr
JITC Co-Chair
Drilling Operations Manager – Unconventionals

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ExxonMobil

979 942 6673

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STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPT.
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 9316
Order No. R-111-P

APPLICATION OF THE OIL CONSERVATION
DIVISION UPON ITS OWN MOTION TO
REVISE ORDER R-111, AS AMENDED, PERTAINING
TO THE POTASH AREAS OF EDDY AND LEA
COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on February 18, 1988, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 21st day of April, 1988, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) Order R-111-A was entered July 14, 1955, and since that time no amendments have been entered, except amendments to Exhibit "A" attached thereto, despite significant advances in drilling technology and practices.

(3) Operation under Order R-111-A has become virtually unworkable because of 1) the lack of tolerance on the part of both oil/gas and potash industries in regarding the activities of the other industry in areas where leasehold interests are overlapping and 2) confusion recording the boundaries of the known Potash Leasing Area (KPLA) established by the U.S. Bureau of Land Management (BLM) and the R-111-A area as amended by Orders R-111-B through O.

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CC The then Director of the Oil Conservation Division (OCD) by memorandum dated March 21, 1986 convened a study committee of volunteer representatives from the oil and potash industries and other interested parties.

(5) The committee met May 29, September 25-26, and November 13-14 (field trip) in 1986 and on March 19, 1987.

(6) By committee agreement a work committee was formed from the larger committee consisting of three members and one alternate from each industry and this work committee was chaired by the OCD Chief Petroleum Engineer and charged with the responsibility to develop proposed amendments to Order R-111-A. It met on April 30, May 1, July 23-24 and November 23, 1987.

(7) Each meeting of the work committee was held in the presence of representatives of both BLM and OCD; and at its final meeting November 23, 1987 an agreement was reached and signed by the committee members present, which agreement is attached hereto as Exhibit "B", for the purpose of providing background information and acknowledging the concensus reached by representatives of the Oil and Gas and Potash industries relating to the multiple use of resources in the potash area.

(8) Exhibit "B" is regarded by the Commission as a report of both the work committee and the full study committee since a draft copy of a nearly identical agreement was furnished to each member of the study committee for comment, and comments received thereon were addressed at the final meeting.

(9) The agreement represents a compromise by both industries, the potash operators relinquishing lower grade marginal or uneconomic ore deposits in order to more fully protect their higher grade ore deposits; and the oil/gas operators receiving such lands containing sub-economic ore deposits as prospective drill-sites.

(10) The Oil and Gas Act, 70-2-3 F NMSA 1978, declares as waste "drilling or producing operations for oil or gas within any area containing commercial deposits of potash where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered -- or where such operations would interfere unduly with the orderly commercial development of such potash deposits".

(11) The Oil and Gas Act in 70-2-12 B(17) empowers the Division "to regulate and, where necessary, prohibit drilling

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or producing operations for oil and gas" in areas which would cause waste as described in 70-2-3 E.

(12) The report of the work committee presents a reasonable process for determining where wells for oil and gas would cause waste of potash and the pertinent portions of said report should be contained in the order as a reasonable process for prohibiting oil and gas drilling in such areas in the absence of substantial evidence that waste of potash as described by the statute would not result.

(13) Release of methane into potash mine workings would endanger the lives of miners and would render further mining activities uneconomic because of the additional, and more expensive safety requirements which would be imposed by the Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor.

(14) Salt and potash deposits are essentially non-porous and impermeable but are inter-bedded with clay seams which, in an undisturbed state are porous but of extremely low permeability.

(15) Primary mining activity creates minor localized disturbance but secondary mining causes subsidence of the overburden the effects of which tend to expand beyond the mined out area a distance approximately equal to the depth of the mined area.

(16) During the drilling of wells for oil and gas, measures should be taken to protect the salt-protection casing from internal pressures greater than the designed burst resistance plus a safety factor so as to prevent any possible entry of methane into the salt and potash interval.

(17) A proposed revision of Order R-111-A was presented at the hearing and comments were received thereon both orally at the hearing and in writing subsequent to the hearing, the record being held open for two weeks subsequent to the hearing, as announced by the Chairman.

(18) Testimony and comments both in support and in opposition to the proposed revision of the order were received at the hearing and subsequent thereto, some pointing out that the number of oil or gas wells which could be drilled under the terms of the committee report would be reduced but no comments addressed the possible waste of potash as a result of additional drilling.

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(19) One member of the work committee from the potash industry testified the proposed revision of Order R-111-A failed to prohibit drilling in the commercial ore areas and was therefore contrary to the work committee report and the Oil and Gas Act.

(20) The Commission cannot abdicate its discretion to consider applications to drill as exceptions to its rules and orders but in the interest of preventing waste of potash should deny any application to drill in commercial potash areas as recommended in the work committee report, unless a clear demonstration is made that commercial potash will not be wasted unduly as a result of the drilling of the well.

(21) Confusion can be reduced and efficiencies can be obtained by making the area covered by Order R-111 coterminous with the KPLA as determined by the BLM, and the area should be expanded and contracted by the regular pool nomenclature procedure rather than by separate hearings and further revisions of Order R-111.

(22) Expansion of the R-111 area to coincide with the KPLA will bring under the purview of this order areas where potash is either absent or non-commercial and such areas should be granted less stringent casing, cementing and plugging requirements, at the discretion of the OCD district supervisor.

(23) The proposed revision of Order R-111-A will permit the drilling of wells for oil or gas in areas previously not available for such drilling and will prevent waste of potash, and further, will serve to reduce confusion and uncertainty in the conduct of operations by both the potash and oil/gas industries, all to the benefit of the state and its citizens.

IT IS THEREFORE ORDERED THAT:

This order shall be known as The Rules and Regulations Governing the Exploration and Development of Oil and Gas in Certain Areas Herein Defined, Which Are Known To Contain Potash Reserves.

A. OBJECTIVE

The objective of these Rules and Regulations is to prevent waste, protect correlative rights, assure maximum conservation of the oil, gas and potash resources of New Mexico, and permit the economic recovery of oil, gas and potash minerals in the area hereinafter defined.

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B. THE POTASH AREA

(1) The Potash Area, as described in Exhibit A attached hereto and made a part hereof, represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves. Such area is coterminous with the Known Potash Leasing Area (KPLA) as determined by the U.S. Bureau of Land Management (BLM).

(2) The Potash Area, as described in Exhibit "A" may be revised by the Division after due notice and hearing at the regular pool nomenclature hearings, to reflect changes made by BLM in its KPLA.

C. DRILLING IN THE POTASH AREA

(1) All drilling of oil and gas wells in the Potash Area shall be subject to these Rules and Regulations.

(2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Division or its duly authorized representative, would result in undue waste of potash deposits or constitute a hazard to or interfere unduly with mining of potash deposits.

No mining operations shall be conducted in the Potash Area that would, in the opinion of the Division or its duly authorized representative, constitute a hazard to oil or gas production, or that would unreasonably interfere with the orderly development and production from any oil or gas pool.

(3) Upon discovery of oil or gas in the Potash Area, the Oil Conservation Division may promulgate pool rules for the affected area after due notice and hearing in order to address conditions not fully covered by these rules and the general rules.

(4) The Division's District Supervisor may waive the requirements of Sections D and F which are more rigorous than the general rules upon satisfactory showing that a location is outside the Life of Mine Reserves (LMR) and surrounding buffer zone as defined hereinbelow and that no commercial potash resources will be unduly diminished.

(5) AM encounters with flammable gas, including hydrogen sulfide, during drilling operations shall be reported immediately to the appropriate OCD District office followed by a written report of same.

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D. DRILLING AND CASING PROGRAM

(1) For the purpose of the regulations and the drilling of wells for oil and gas, shallow and deep zones are defined as follows:

(a) The shallow zone shall include all formations above the base of the Delaware Mountain Group or, above a depth of 5,000 feet, whichever is lesser.

(b) The deep zone shall include all formations below the base of the Delaware Mountain Group or, below a depth of 5,000 feet, whichever is lesser.

(c) For the purpose of identification, the base of the Delaware Mountain Group is hereby identified as the geophysical log marker found at a depth of 7485 feet in the Richardson and Bass No. 1 Rodke well in Section 27, Township 20 South, Range 31 East, NMPM, Eddy County, New Mexico.

(2) Surface Casing String:

(a) A surface casing string of new or used oil field casing in good condition shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and the cement shall be circulated to the surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water-shut-off tests shall be made both before and after drilling the plug and below the casing seat as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole, and if the

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hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

(3) Salt Protection String:

(a) A salt protection string of new or used oil field casing in good condition shall be set not less than one hundred (100) feet nor more than six hundred (600) feet below the base of the salt section; provided that such string shall not be set below the top of the highest known oil or gas zone. With prior approval of the OCD District Supervisor the wellbore may be deviated from the vertical after completely penetrating Marker Bed No. 126 (USGS) but that section of the casing set in the deviated portion of the wellbore shall be centralized at each joint.

(b) The salt protection string shall be cemented, as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string shall be re-cemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or may be cut and pulled if the production string is cemented to the surface as provided in sub-section D (5)(a)(i) below.

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature, gamma ray or other survey and additional cementing shall be done until the cement is brought to the point required.

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(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with suitable proportions but not less than 1% of calcium chloride by weight of cement.

(e) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(f) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(g) The Division, or its duly authorized representative, may require the use of centralizers on the salt protection string when in their judgment the use of such centralizers would offer further protection to the salt section.

(h) Before drilling the plug a drilling spool installed below the bottom blowout preventer or the wellhead casing outlet shall be equipped with a rupture disc or other automatic pressure-relief device set at 80% of the API-rated burst pressure of new casing or 60% of the API-rated burst pressure of used casing. The disc or relief device should be connected to the rig choke manifold system so that any flow can be controlled away from the rig. The disc or relief device shall remain installed as long as drilling activities continue in the well until the intermediate or production casing is run and cemented.

(i) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section D (3) (b) (i) and (ii) above.

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(4) Intermediate String:

(a) In drilling wells to the deep zone for oil or gas, the operator shall have the option of running an intermediate string of pipe, unless the Division requires an intermediate string be run.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections D (3) (c), (e) and (f) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the surface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that if the salt protection string was cemented to the surface, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone; provided, that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-section D (3) (c), (e) and (f) for the salt protection string; however if high pressure oil or gas production is discovered in an area, the Division may promulgate the necessary rules to prevent the charging of the salt section.

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E. DRILLING FLUID FOR SALT SECTION

The fluid used while drilling the salt section shall consist of water, to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically intended to prevent enlarged drill holes.

F. PLUGGING AND ABANDONMENT OF WELLS

(1) All wells heretofore and hereafter drilled within the Potash Area shall be plugged in a manner and in accordance with the general rules or field rules established by the Division that will provide a solid cement plug through the salt section and any water-bearing horizon and prevent liquids or gases from entering the hole above or below the salt section.

(2) The fluid used to mix the cement shall be saturated with the salts common to the salt section penetrated and with suitable proportions but not more than three (3) percent of calcium chloride by weight of cement being considered the desired mixture whenever possible.

G. DESIGNATION OF DRILLABLE LOCATION FOR WELLS

(a) Within ninety (90) days following effective date of this Order and annually thereafter by January 31 if revised, each potash lessee, without regard to whether the lease covers State or Federal lands, shall file with the District Manager, BLM, and the State Land Office (SLO), a designation of the potash deposits considered by the potash lessee to be its life-of-mine reserves ("LMR"). For purposes of this Agreement, "life-of-mine reserves" means those potash deposits within the Potash Area reasonably believed by the potash lessee to contain potash ore in sufficient thickness and grade to be mineable using current day mining methods, equipment and technology. Information used by the potash lessee in identifying its LMR shall be filed with the BLM and SLO butwill be considered privileged and confidential "trade secrets and commercial. . . .information" within the meaning of 43 C.F.R.§2.13(c) (4) (1986), Section 19-1-2.1 NMSA 1978, and not subject to public disclosure.

(b) Authorized officers of the BLM and SLO shall review the information submitted by each potash lessee

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in support of its LMR designation on their respective lands and verify upon request, that the data used by the potash lessee in establishing the boundaries of its LMR is consistent with data available to the BLM and SLO. Any disputes between the BLM and potash lessee concerning the boundary of a designated LMR shall be resolved in accordance with the Department of Interior's Hearings and Appeals Procedures, 43 C.F.R. Part 4 (1986).

(c) A potash lessee may amend its designated LMR by filing a revised designation with the BLM and SLO accompanied by the information referred to in Section A above. Such amendments must be filed by January 31 next following the date the additional data becomes available.

(d) Authorized officers of the BLM and SLO shall commit the designated LMR of each potash lessee to a map(s) of suitable scale and thereafter revise the map(s) as necessary to reflect the latest amendments to any designated LMRs. These maps shall be considered privileged and confidential and exempt from disclosure under 43 C.F.R. Part 2 and §19-1-2.1 NMSA 1978, and will be used only for the purposes set forth in this Order.

(e) The foregoing procedure can be modified by policy changes within the BLM and State Land Office.

(2) Before commencing drilling operations for oil or gas on any lands within the Potash Area, the well operator shall prepare a map or plat showing the location of the proposed well, said map or plat to accompany each copy of the Notice of Intention to Drill. In addition to the number of copies required by the Division, the well operator shall send one copy by registered mail to each potash operator holding potash leases within a radius of one mile of the proposed well, as reflected by the plats submitted under paragraph I (2). The well operator shall furnish proof of the fact that said potash operators were notified by registered mail of his intent by attaching return receipt to the copies of the Notice of Intention to Drill and plats furnished the Division.

(3) Drilling applications on federal lands will be processed for approval by BLM. Applications on state or patented lands will be processed by the Division and, in the case of state lands, in collaboration with the SLO. The Division will first ascertain from the BLM or SLO that the location is not within the LMR area. Active mine workings and mined-out areas shall also be treated as LMR. Any application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of lessor and lessees of

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both potash and oil and gas interests. Applications to drill outside the LMR will be approved as indicated below; provided there is no protest from potash lessee within 20 days of his receipt of a copy of the notice:

(a) a shallow well shall be drilled no closer to the LMR than one-fourth (1/4) mile or 110% of the depth of the ore, whichever is greater.

(b) A deep well shall be drilled no closer than one-half (1/2) mile from the LMR.

H. INSPECTION OF DRILLING AND MINING OPERATIONS

A representative of any potash lessee within a radius of one mile from the well location may be present during drilling, cementing, casing, and plugging of any oil or gas wells to observe conformance with these regulations. Likewise, a representative of the oil and gas lessee may inspect mine workings on his lease to observe conformance with these regulations.

I. FILING OF WELL SURVEYS, MINE SURVEYS AND POTASH DEVELOPMENT PLANS

(1) Directional Surveys:

The Division may require an operator to file a certified directional survey from the surface to a point below the lowest known potash-bearing horizon on any well drilled within the Potash Area.

(2) Mine Surveys:

Within 30 days after the adoption of this order and thereafter on or before January 31st of each year, each potash operator shall furnish the Division two copies of a plat of a survey of the location of his leaseholdings and all of his open mine workings, which plat shall be available for public inspection and on a scale acceptable to the Division.

J. APPLICABILITY OF STATEWIDE RULES AND REGULATIONS

All general statewide rules and regulations of the Oil Conservation Division governing the development, operation, and production of oil and gas in the State of New

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Mexico not inconsistent or in conflict herewith, are hereby adopted and made applicable to the areas described herein.

IT IS FURTHER ORDERED THAT:

(1) Order R-111 and amendments through R-111-O are hereby rescinded.

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

Done at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

WILLIAM R. HUMPHRIES, Member

ERLING A. BROSTUEN, Member

WILLIAM J. LEMAY, Chairman
and Secretary

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EXHIBIT "A"
CASE 9316
ORDER R-111-P

CONSOLIDATED LAND DESCRIPTION OF THE KNOWN POTASH LEASING AREA, AS OF FEBRUARY 3, 1988

EDDY COUNTY, NEW MEXICO

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM
Section 10: SE/4 SE/4
Section 11: S/2 SW/4
Section 13: W/2 SW/4 and SE/4 SW/4
Section 14: W/2 NE/4, NW/4 and S/2
Section 15: E/2 NE/4, SE/4 SW/4 and SE/4
Section 22: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 23: All
Section 24: N/2 NW/4, SW/4 NW/4 and NW/4 SW/4
Section 26: NE/4, N/2 NW/4 and SE/4 NW/4
Section 27: N/2 NE/4 and NE/4 NW/4

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 11: SE/4 SE/4
Section 12: SE/4 NE/4 and S/2
Section 13: All
Section 14: NE/4, SE/4 NW/4 and S/2
Section 15: SE/4 SE/4
Section 22: NE/4, E/2 W/2 and SE/4
Section 23: All
Section 24: All
Section 25: NW/4 NW/4
Section 26: N/2 NE/4 and NW/4
Section 27: NE/4 and E/2 NW/4

TOWNSHIP 19 SOUTH RANGE 30 EAST, NMPM
Section 2: SW/4
Section 3: W/2 SW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 4: Lots 3 and 4. SW/4 NE/4, S/2 NW/4 and S/2
Section 5: Lots 1, 2. and 3, S/2 NE/4. S/2 NW/4 and S/2
Section 6: S/2 SE/4 and NE/4 SE/4
Sections 7 to 10 inclusive
Section 11: S/2 NE/4, NW/4 NW/4 and S/2
Section 12: NE/4, S/2 NW/4 and S/2
Section 13: NE/4, W/2, N/2 SE/4 and SW/4 SE/4
Sections 14 to 18 inclusive
Section 19: Lots 1, 2, and 3, NE/4, E/2 NW/4, NE/4 SW/4, E/2 SE/4 and NW/4 SE/4
Sections 20 to 23 inclusive
Section 24: NW/4. NW/4 SW/4 and S/2 SW/4

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Section 25: NW/4 NW/4
Section 26: NE/4 NE/4, W/2 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 27: All
Section 28: All
Section 29: E/2, E/2 NW/4 and NW/4 NW/4
Section 32: E/2 and SE/4 SW/4
Section 33 to 35 inclusive
Section 36: NW/4 NW/4, S/2 NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 31 EAST, NMPM
Section 7: Lots 1, 2, and 3 and E/2 NW/4
Section 18: Lots 1, 2, and 3 and SW/4 NE/4, E/2 NW/4 and NE/4 SW/4
Section 31: Lot 4
Section 34: SE/4 SE/4
Section 35: S/2 SW/4 and SW/4 SE/4
Section 36: S/2 SE/4

LEA COUNTY, NEW MEXICO

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 31: Lot 4
Section 33: Lots 1 to 4 inclusive and N/2 S/2
Section 34: Lots 1 to 4 inclusive and N/2 S/2
Section 35: Lots 1 to 4 inclusive and N/2 S/2
Section 36: Lots 1 to 4 inclusive, SE/4 NE/4, NW/4 SW/4 and NE/4 SE/4

TOWNSHIP 19 SOUTH, RANGE 33 EAST, NMPM
Section 22: SE/4 NE/4, E/2 SW/4 and SE/4
Section 23: S/2 NW/4, SW/4, W/2 SE/4 and SE/4 SE/4
Section 25: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 26: All
Section 27: All
Section 28: S/2 SE/4 and NE/4 SE/4
Section 30: Lots 2 to 4 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 31: All
Section 32: NE/4, S/2 NW/4 and S/2
Sections 33 to 35 inclusive
Section 36: W/2 NE/4, SE/4 NE/4, NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 34 EAST, NMPM
Section 31: Lots 3 and 4

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EXHIBIT "A" con'd

EDDY COUNTY. NEW MEXICO

TOWNSHIP 2() SOUTH, RANGE 29 EAST, NMPM
Section 1: SE/4 NE/4 and E/2 SE/4
Section 13: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 14: NW/4 NE/4, S/2 NE/4, NW/4 and S/2
Section 15: E/2 E/2, SE/4 SW/4 and W/2 SE/4
Section 22: E/2 and E/2 NW/4
Section 23: All
Section 24: SW/4 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 25: N/2, SW/4, W/2 SE/4 and NE/4 SE/4
Section 26: All
Section 27: E/2
Section 34: NE/4
Section 35: N/2
Section 36: W/2 NE/4 and NW/4

TOWNSHIP 20 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 4 inclusive
Section 5: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 6 Lots 5, 6, and 7, S/2 NE/4, E/2 SW/4 and SE/4
Section 7 Lots 1 and 2. E/2 and E/2 NW/4
Sections 8 to 17 inclusive
Section 18 E/2
Section 19 E/2 and SE/4 SW/4
Sections 20 to 29 inclusive
Section 30: Lots 1 to 3 inclusive, E/2 and E/2 W/2
Section 31: NE/4 and E/2 SE/4
Sections 32 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 31 EAST. NMPM
Section 1: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 2: All
Section 3: Lots 1 and 2, S/2 NE/4 and SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: S/2 N/2 and S/2
Section 9: S/2 NW/4, SW/4, W/2 SE/4 and SE/4 SE/4
Section 10: E/2 and SW/4
Sections 11 to 36 inclusive

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EXHIBIT "A" con'd

LEA COUNTY, NEW MEXICO

TOWNSHIP 20 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 4 inclusive
Section 5: S/2 SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4 and SW/4 SE/4
Sections 7 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 33 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 3 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: SW/4, S/2 NW/4, W/2 SE/4 and SE/4 SE/4
Section 16: W/2 NW/4, SE/4 NW/4, SW/4 and S/2 SE/4
Sections 17 to 21 inclusive
Section 22: N/2 NW/4, SW/4 NW/4, SW/4, W/2 SE/4, and SE/4 SE/4
Section 26: SW/4, W/2 SE/4 and SE/4 SE/4
Sections 27 to 35 inclusive
Section 36: SW/4 NW/4 and W/2 SW/4

EDDY COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 3 inclusive
Section 4: Lots 1 through 16, NE/4 SW/4 and SE/4
Section 5: Lot 1
Section 10: N/2 NE/4, SE/4 NE/4 and SE/4 SE/4
Sections 11 to 14 inclusive
Section 15: E/2 NE/4 and NE/4 SE/4
Section 23: N/2 NE/4
Section 24: E/2, N/2 NW/4 and SE/4 NW/4
Section 25: NE/4 NE/4 and S/2 SE/4
Section 35: Lots 2 to 4 inclusive, S/2 NE/4, NE/4 SW/4 and N/2 SE/4
Section 36: Lots 1 to 4 inclusive, NE/4, E/2 NW/4 and N/2 S/2

TOWNSHIP 21 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

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EXHIBIT "A" con'd

TOWNSHIP 21 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 36 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 27 inclusive
Section 28: N/2 and N/2 S/2
Sections 29 to 31 inclusive
Section 32: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 34: N/2 NE/4
Section 35: N/2 N/2
Section 36: E/2. N/2 NW/4, SE/4 NW/4 and NE/4 SW/4

TOWNSHIP 21 SOUTH, RANGE 33 EAST, NMPM
Section 1: Lots 2 to 7 inclusive, Lots 10 to 14 inclusive. N/2 SW/4 and SW/4 SW/4
Sections 2 to 11 inclusive
Section 12: NW/4 NW/4 and SW/4 SW/4
Section 13: N/2 NW/4, S/2 N/2 and S/2
Sections 14 to 24 inclusive
Section 25: N/2. SW/4 and W/2 SE/4
Sections 26 to 30 inclusive
Section 31: Lots 1 to 4 inclusive, NE/4, E/2 W/2, N/2 SE/4 and SW/4 SE/4
Section 32: N/2 and NW/4 SW/4
Section 33: N/2
Section 34: NE/4, N/2 NW/4 and E/2 SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and S/2

TOWNSHIP 21 SOUTH, RANGE 34 EAST, NMPM
Section 17: W/2
Section 18: All
Section 19: Lots 1 to 4 inclusive, NE/4, E/2 W/2. N/2 SE/4 and SW/4 SE/4
Section 20: NW/4 NW/4
Section 30: Lots 1 and 2 and NE/4 NW/4
Section 31: Lots 3 and 4

EDDY COUNTY. NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 28 EAST, NMPM
Section 36: E/2 E/2

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EXHIBIT "A" con'd

TOWNSHIP 22 SOUTH, RANGE 29 EAST, NMPM
Sections 1 and 2 inclusive
Section 3 SE/4 SW/4 and SE/4
Section 9 S/2 NE/4 and S/2
Sections 10 to 16 inclusive
Section 17 S/2 SE/4
Section 19 SE/4 NE/4 and E/2 SE/4
Sections 20 to 28 inclusive
Section 29 N/2 N/2, S/2 NE/4 and SE/4
Section 30 NE/4 NE/4
Section 31 Lots 1 to 4 inclusive, S/2 NE/4, E/2 W/2 and SE/4
Sections 32 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 11 inclusive
Section 12: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 13: S/2 NW/4 and SW/4
Sections 14 to 23 inclusive
Section 24: W/2
Section 25: NW/4
Section 26: NE/4 and N/2 NW/4
Sections 27 to 34 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 32 EAST, NMPM
Section 1: Lot 1
Section 6: Lots 2 to 7 inclusive and SE/4 NW/4

TOWNSHIP 22 SOUTH, RANGE 33 EAST, NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 2: All
Section 3: Lot 1, SE/4 NE/4 and SE/4
Section 6: Lot 4
Section 10: NE/4
Section 11: NW/4 NE/4 and NW/4

TOWNSHIP 21 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 4 to 6 inclusive

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EXHIBIT "A" con'd

EDDY COUNTY, NEW MEXICO

TOWNSHIP 23 SOUTH, RANGE 28 EAST, NMPM
Section 1: Lot 1

TOWNSHIP 23 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 5 inclusive
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 7: NE/4 and NE/4 NW/4
Section 8: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Sections 9 to 16 inclusive
Section 17: NE/4 and E/2 SE/4
Sections 21 to 23 inclusive
Section 24: N/2, SW/4 and N/2 SE/4
Section 25: W/2 NW/4 and NW/4 SW/4
Section 26: All
Section 27: All
Section 28: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 33: N/2 NE/4 and NE/4 NW/4
Section 34: NE/4, E/2 NW/4, NW/4 NW/4, NE/4 SW/4 and SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and N/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 18 inclusive
Section 19 N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 20 All
Section 21 All
Section 22 N/2, S/2 SW/4, N/2 S/2 and SE/4 SE/4
Sections 23 to 25 inclusive
Section 26 E/2, SE/4 NW/4 and SW/4
Section 27 N/2 NW/4, SW/4 NW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 28 N/2 and SW/4
Section 29 N/2 and SE/4
Section 30 N/2 NE/4
Section 32 N/2 NE/4
Section 33 SE/4 NE/4, N/2 NW/4, NE/4 SE/4 and S/2 SE/4
Sections 34 to 36 inclusive

TOWNSHIP 23 SOUTH, RANGE 31 EAST, NMPM
Section 2: Lot 4, SW/4 NW/4 and W/2 SE/4
Sections 3 to 7 inclusive
Section 8: NE/4 NE/4, W/2 NE/4 and W/2
Section 9: N/2 N/2
Section 10: NW/4 NW/4 and SE/4 SE/4
Section 11: S/2 NE/4, S/2 SW/4 and SE/4

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Section 12: SW/4 NW/4 and SW/4
Section 13: SW/4 NE/4, W/2 and W/2 SE/4
Section 14: All
Section 15: E/2, SE/4 NW/4 and SW/4
Section 16: SW/4 and S/2 SE/4
Section 17: NW/4 and S/2
Sections 18 to 23 inclusive
Section 24: W/2 NE/4 and W/2
Section 25: W/2 NE/4, NW/4, N/2 SW/4 and NW/4 SE/4
Sections 26 to 34 inclusive
Section 35: N/2 NW/4 and SW/4 NW/4

TOWNSHIP 24 SOUTH, RANGE 29 EAST, NMPM
Section 2: Lots 2 to 4 inclusive
Section 3: Lot 1

TOWNSHIP 24 SOUTH, RANGE 30 EAST, NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2, SW/4 and NW/4 SE/4
Section 2: All
Section 3: All
Section 4: Lots 1 and 2, S/2 NE/4, SE/4 NW/4, SW/4 SW/4. E/2 SW/4 and SE/4
Section 9: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 10: All
Section 11: All
Section 12: W/2 NW/4 and NW/4 SW/4
Section 14: W/2 NE/4 and NW/4
Section 15: NE/4 and N/2 NW/4

TOWNSHIP 24 SOUTH, RANGE 31 EAST, NMPM
Section 3: Lots 2 to 4 inclusive, SW/4 NE/4, S/2 NW/4, SW/4 and W/2 SE/4
Section 4: All
Section 5: Lots 1 to 4 inclusive, S/2 N/2, N/2 S/2 and SE/4 SE/4
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, NE/4 SW/4 and N/2 SE/4
Section 9: E/2 and NW/4
Section 10: W/2 NE/4 and W/2
Section 35: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 36: Lots 1 and 2, SW/4 NW/4 and N/2 SW/4

TOWNSHIP 25 SOUTH, RANGE 31 EAST, NMPM
Section 1: Lots 3 and 4 and S/2 NW/4
Section 2: Lots 1 to 4 inclusive and S/2 N/2

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STATEMENT OF AGREEMENT BETWEEN
THE POTASH INDUSTRY AND OIL AMD
GAS INDUSTRY ON CONCURRENT
OPERATIONS IN THE POTASH AREA
IN EDDY AND LEA COUNTIES, HEW MEXICO

Introduction

This Statement of Agreement sets forth the joint agreement of the Potash Industry and Oil and Gas Industry on important issues concerning the concurrent development of potash and oil and gas reserves in Eddy and Lea Counties, New Mexico. It represents the efforts of numerous representatives from each Industry over many months and is intended to resolve many of the disputes that have arisen as a result of concurrent oil and gas drilling activities in the vicinity of underground potash mining.

The parties recognize that this Agreement will not resolve all disputes or disagreements that may arise and that regulatory intervention may still be necessary in some instances. By entering into this Agreement, . however, each industry recognizes the right of the other to develop its mineral resources in a safe and economical manner and acknowledges that concurrent development of multiple mineral resources places certain limits on each industry. Each also agrees that these limits can be better defined through good faith discussions among industry representatives familiar with industry technology and practices than repeated and prolonged litigation or administrative proceedings.

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ORDER NO. R-111-P

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In attempting to accomplish this, **each** Industry has made concessions on issues considered critical to it in a good faith effort to obtain concessions from the other. For this reason, both Industries agree that the terms of this Statement of Agreement are subject to the following conditions:

1. Upon approval by representatives of each Industry, the terms of the Agreement will be submitted to and must be adopted without substantial change by the New Mexico Oil Conservation Commission **("OCC")** in lieu of the current Order R-111A, as amended;

2. The terms of the **Agreement** will be submitted to and must be adopted without substantial change by the U. S. Department of Interior, Bureau of Land Management ("BLM") in lieu of Section III (E) of the Secretary of the **Interior's** Order of October 21, 1986 [51 **Fed. Reg. 39425];**

3. Each Industry will use its best efforts to secure approval of the terms of the Agreement from the OCC and BLM; and

4. In the event the terms in the Agreement are not adopted without substantial change by both the OCC and the BLM, this Statement of Agreement will become null and void and will not be referred to by any Industry representative on the Study Committee in any future proceeding before the OCC or BLM.

It is the intention of the parties to this Agreement that: (1) certain areas of potash deposits, called **"life-of-mine-reserves"** or **"LMR's,"** be permanently protected from oil and gas drilling activities; and (2) to make available for oil and gas drilling activities, certain areas within the Potash Area. The area of potash deposits protected will be determined in accordance with this Agreement but, generally speaking, will encompass the yellow, orange and a major portion of the blue

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areas shown on the BLM Potash Resources Map as it existed on October 1, 1984. Areas in the Potash Area that will be available for oil and gas drilling activities will be those areas outside the designated LMR's which, generally speaking, will be the red, green, grey and a minor portion of the blue areas shown on the BLM Potash Resources Map as it existed on October 1, 1984, less areas designated as buffer zones by this Agreement.

I. The Potash Area

A. The Area covered by this Agreement shall be known as the "Potash Area".

B. The "Potash Area" includes those tracts of land in Southeastern New Mexico, from the surface downward, which are designated as a "potash area" by the Secretary of the Department of Interior in Section V of the Order dated October 21, 1986 and published in the Federal Register on October 28, 1986 [51 Fed. Reg. 39426]. It shall also include any subsequent revisions to such designations. The terms "potash" and "commercial deposits of potash" shall have the same meaning as assigned by the U. S. Department of Interior.

C. It is the intent of the parties to this Agreement that the "Potash Area" designated by the State of New Mexico be identical to that designated by the U. S. Department of Interior. Accordingly, if the "potash area" designated in the Secretarial Order of October 21, 1986 [51 Fed. Reg. 39425] is revised, the OCC, on its own motion after notice and hearing as

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provided by applicable laws and regulations, will adopt the same revision.

II. Designation ot Mine Reserves

A. Within ninety (90) days following adoption of this Agreement by the OCC and BLM and annually thereafter by January 31 if revised, each potash lessee, without regard to whether the lease covers State or Federal lands, shall file with the District Manager, BLM, a designation of the potash deposits considered by the potash lessee to be its life-of-mine reserves ("LMR"). For purposes of this Agreement, **"life-of-mine** reserves" means those potash deposits within the Potash Area reasonably believed by the potash lessee to contain potash ore in sufficient thickness and grade to be mineable using current day mining methods, equipment and technology. Information used by the potash lessee in identifying its LMR shall be filed with the BLM but will be considered privileged and confidential "trade secrets and commercial . . . information" within the meaning of 43 C.F.R. **§2.13(c)(4)** (1986) and not subject to public disclosure.

B. An authorized officer of the BLM shall review the information submitted by each potash lessee in support of its LMR designation and verify, upon request, that the data used by the potash lessee in establishing the boundaries of its LMR is consistent with data available to the BLM. Any disputes between the BLM and potash lessee concerning the boundary of a designated LMR shall be resolved in accordance with the

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Department of Interior's Hearings and Appeals Procedures, 43 C.F.R. Part 4 (1986).

C. A potash lessee may amend its designated LMR by filing a revised designation with the BLM accompanied by the information referred to in Section A above. Such amendments must be filed by January 31 next following the date the additional data becomes available.

D. An authorized officer of the BLM shall commit the designated LMR of each potash lessee to a map(s) of suitable scale and thereafter revise the map(s) as necessary to reflect the latest amendments to any designated LMRs. These maps shall be considered privileged and confidential and exempt from disclosure under 43 C.F.R. Part 2 and will be used only for the purposes set forth in this Agreement.

III. Drilling in the Potash Area

A. All oil and gas wells drilled in the Potash Area after approval of this Agreement by the OCC and BLM, including those currently pending **before** the OCC and/or BUM, shall be subject to the terms of this Agreement.

B. It is the policy of the OCC and BLM to approve or deny applications for permits to drill (APD's) in the Potash Area in accordance with the following:

1. LMR and Buffer Zone. No oil or gas well shall be allowed from a surface location: (a) within the LMR of any potash lessee; (b) within one-fourth (1/4) mile, or a distance equal to the depth of the ore plus ten percent (10%), whichever is greater, of the LMR of any potash lessee; or (c) where the well casing will pass within one-fourth (1/4) mile, or **a** distance equal to

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the depth of the ore plus ten percent (10%), whichever is greater, of the LMR of any potash lessee.

2. Outside Buffer Zone But Within One-Half (1/2) mile of LMR. An APD for an oil or gas well at a location more than one-fourth (1/4) mile, or a distance equal to the depth of the ore plus ten percent (10%), whichever is greater, but less than one-half (1/2) mile from the LMR of any potash lessee may be approved only if: (a) the bottom hole location does not extend below the base of the Delaware Mountain Group, and (b) the well is drilled in accordance with the cementing and casing requirements set forth in Section V.

3. More Than One-Half Mile But Less Than One Mile From LMR. An APD for an oil or gas well at a location more than one-half (1/2) mile but less than one mile from the LMR of any potash lessee may be approved regardless of the depth of the bottom hole location provided: (a) wells with bottom hole locations below the base of the Delaware Mountain Group are drilled in accordance with the cementing and casing requirements set forth in Section V of this Agreement, and (b) wells to bottom hole locations above the base of the Delaware Mountain Group may be drilled without regard to the requirements in Section V of this Agreement but must be drilled in accordance with then current Industry safety standards.

4. More Than One Mile From LMR. An APD for an oil or gas well at a location more than one mile from the LMR of any potash lessee may be approved regardless of the depth of the bottom hole location and without regard to the requirements of Section V of this Agreement.

5. Open Mine Workings. No oil or gas well shall be allowed from any location where the well casing will pass within one-fourth (1/4) mile or a distance equal to the depth of the ore plus ten percent (10%), whichever is greater, of any open mine workings.

6. Abandoned Mine Workings. No oil or gas well shall be allowed from any location where the well casing will pass through or within one-fourth (1/4) of a mile or a distance equal to the depth of the ore plus ten percent (10%), whichever is greater, of any abandoned mine workings that are connected to an existing mine by an opening or barrier of one-hundred (100) feet or less unless the APD is accompanied by the sealing and safety plan and certification described in Paragraph C below.

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7. An **APD.for** a directionally drilled oil or gas well to a bottom hole location underlying the LMR of any potash **lessee** may be approved subject to the limitations and requirements set forth in Paragraphs 1 - 6 above. Directionally drilled holes shall be drilled vertically until they have completely penetrated Marker Bed No. 126 (U.S.G.S.) of the Salado Formation at which time they may be deviated.

C. An oil and gas operator desiring to drill a well to a bottom hole location that does not extend below the base of the Delaware Mountain Group from a surface location where the well casing will pass through or within one-fourth (1/4) of a mile or a distance equal to the depth of the ore plus ten percent (10%), whichever is greater, of abandoned mine workings that are connected to an existing mine by any opening or a barrier of one-hundred (100) feet or less shall prepare and submit to all affected potash lessees a plan and program for sealing off the area to be penetrated from other mine workings. Approval of any such plan shall be in the sole discretion of the affected potash lessees. **Any approved** plan shall be attached by the oil and gas operator to the APD for filing with the OCC, and/or BLM. The oil and gas operator shall also complete a **certification** in the form prescribed by the OCC and/or BLM that the drilling of such well will not create a safety hazard to affected potash lessees.

D. It is the belief of both parties that the provisions of this Agreement eliminate the need for drilling islands and three-year mining plans and, therefore, both agree that no drilling islands will be established in the Potash Area and the filing of three-year mining plans will be eliminated.

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IV. Location of Wells and Notice to Potash Lessee

A. The BLM, upon request, will advise oil and gas lessees of the surface locations where wells will be allowed to develop the leases. Oil or gas leases covering areas designated a LMR by a potash lessee will be unitized to the extent possible with other areas where drilling is allowed.

B. An oil or gas operator desiring to drill an oil or gas well in the Potash Area or within one (1) mile of a potash lease shall prepare and file an APD with the OCC and/or BLM along with a map or plat showing the location of the proposed well. One copy of the APD and map or plat shall be served by registered mail, return receipt requested, on all potash leaseholders within one (1) mile of the proposed well location. However, if the APD is for an oil or gas well that will penetrate abandoned mine workings, all potash leaseholders in the Potash Area shall be notified. Proof of such service shall be attached to the APD and filed with the OCC and/or BLM. Within twenty (20) days of service of an APD and required documents, any potash leaseholder within one (1) mile of the proposed well location (or any affected potash lessee if the proposed well will penetrate abandoned mine workings) may file an objection with the OCC to the proposed well. If the objections cannot be resolved by agreement of the parties, the matter shall be referred for hearing before the OCC.

C. The failure of a potash leaseholder to object to a well location or its agreement to the drilling locations

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referred to in this Agreement shall not constitute a release of liability. Oil and gas leaseholders and those persons and/or entities involved in the development of the lease shall be responsible as provided by law for any damages caused by them to any person by the release of gases or liquids into the strata or atmosphere as a result of drilling activities.

V. Drilling and Casing Program

[Same as current R-111-A]

VI. Drilling Fluid for Salt Section

[Same as current R-111-A]

VII. Plugging and Abandonment of Wells

[Same as current R-111-A]

VIII. Filing of Well Surveys

The OCC may require an oil and gas operator to file a certified directional survey from the surface to a point below the lowest known potash bearing horizon on all wells drilled in the Potash Area. All encounters with flammable gases, including H_2S, shall be reported by the operator to the OCC.

IX. Additional Safety Requirements and Emergency Action

A. All oil and gas drilling activities within the Potash Area shall be performed using appropriate technology, equipment, and procedures to reduce the hazards of such activities to underground mines and miners and be conducted in accordance with the prudent operator standard.

B. Only the minimum number of wells necessary to develop an oil or gas lease will be allowed within the Potash Area.

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C. In the event the increased oil and gas drilling activities allowed by this Agreement result in a safety hazard or if data developed in the course of such increased activities make it reasonably appear that such activities are or will become a hazard to underground miners or mining activities, the BLM and/or OCC will, upon request, initiate proceedings in accordance with NMSA 70-2-23 and/or other applicable laws and regulations to review such data and take whatever emergency steps are found necessary to eliminate such hazard. Potash lessees may, in addition, initiate actions for injunctive relief under NMSA 70-2-29. The taking or failure to take such action by the OCC or any potash lessee shall not relieve the oil and gas lessee from liability for any damages caused by its oil and gas activities.

AGREED TO AND APPROVED THIS 23rd DAY OF November, 1987, BY THE FOLLOWING REPRESENTATIVES OF EACH INDUSTRY COMPRISING THE POTASH-OIL AREA SPECIAL RULES STUDY COMMITTEE:

For the Oil and Gas Industry:

For the Potash Industry:

W. S. Thayer

Donald Galbraith

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NM-EMNRD-22-0512-B-000087

THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3324

Subject: Oil, Gas, and Potash Leasing and Development within the Designated Potash Area of Eddy and Lea Counties, New Mexico

Sec. 1 **Purpose and Effect**. This Order revises and supersedes the Order of the Secretary of the Interior, dated October 28, 1986 (51 FR 39425), and corrected on August 26, 1987 (52 FR 32171), and provides procedures and guidelines for more orderly co-development of oil, gas, and potash deposits owned by the United States within the Designated Potash Area through safe, concurrent operations.

Sec. 2 **Authority**. This Order is issued in accordance with the authority vested in the Secretary of the Interior in the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359); the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 *et seq.*); and regulations and onshore orders implementing these statutes.

Sec. 3 **Order Revised and Superseded**. The Order of the Secretary of the Interior, dated October 28, 1986 (51 FR 39425), and corrected on August 26, 1987 (52 FR 32171), is hereby superseded by this revised Order. The following provisions will apply to concurrent operations in prospecting for, developing, and producing oil, gas, and potash deposits owned by the United States within the Designated Potash Area.

Sec. 4. **Definitions**.

a. Authorized Officer. Any employee of the Bureau of Land Management (BLM) authorized to perform duties described in 43 CFR Parts 3000, 3100, and 3500, as delegated in the BLM Manual.

b. Barren Area. An area established by the BLM within the Designated Potash Area for which sufficient data is available to establish a lack of potash mineralization in sufficient thickness and quality to be mineable under existing technology and economics.

c. Buffer Zone. Areas established by the BLM within the Designated Potash Area:

(1) extending outward a certain distance from the perimeter of existing underground open mine workings within which oil or gas operations are generally not allowed due to a BLM determination that oil or gas drilling could constitute a hazard to or interfere with orderly potash mining operations; or

(2) extending outward a certain distance from operating oil or gas well(s) or established Drilling Islands within which potash operations are generally not allowed due to a BLM determination that potash mining or exploration operations could constitute a hazard to or interfere with orderly oil or gas operations.

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d. Co-development. The concurrent development of oil, gas, and potash resources within the Designated Potash Area. Co-development is a cooperative effort between industries under the guidelines of this order, as regulated by the BLM, to support production of potash, oil, and gas from the lands within the Designated Potash Area.

e. Designated Potash Area. The land area described in Section 8 of this Order.

f. Development Area. An area established by the BLM within the Designated Potash Area in consideration of appropriate oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while managing the impact on potash resources. Each Development Area will typically have only one Drilling Island, subject to narrow exceptions based on specific facts and circumstances. All new oil and gas wells that penetrate the potash formations within a Development Area will be drilled from the Drilling Island(s) associated with that Development Area. The boundaries of each Development Area will be determined in conformity with Section 6.e.(2).

g. Drilling Island. An area established by the BLM, usually associated with and within a Development Area, from which all new drilling of vertical, directional, or horizontal wells that newly penetrate the potash formations can be performed in order to support the development of oil and gas resources. The size and shape of a Drilling Island defines the area where wellbore penetrations of the potash formations will be allowed; this area is to be as small as practical to allow effective oil and gas development while managing impacts on potash.

h. Indicated Resources. Potash resources from which tonnage, grade, and mineral content are computed partly from specific measurements and samples, and partly from projection of geologic evidence. Indicated Resources are estimated at a lower level of confidence than Measured Reserves.

i. Inferred Resources. Potash resources which are probable, considering reasonably correlated data from lithologic descriptions and well logs, but for which tonnage and grade cannot be computed due to the absence of specific data.

j. Joint Industry Technical Committee. A committee established by, and subject to the management and control of, the potash mining industry and the oil and gas industry whose role is to study how concurrent development of potash and oil and gas can be safely performed in proximity to each other. While the committee may provide input to the BLM on such matters as indicated herein or otherwise at its discretion, it will not be subject to the BLM's management or control.

k. Measured Reserves (also known as "Potash Enclave"). Areas within the Designated Potash Area where potash is known to exist in sufficient thickness and quality to be mineable under existing technology and economics.

l. Potash. Potassium and associated minerals as specified in the Act of February 27, 1927 (30 U.S.C. §§ 281-287).

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m. Unknown Area. An area within the Designated Potash Area where there is an absence of data for the BLM to classify the mineralization as Measured Reserves, Indicated Resources, Inferred Resources, or Barren Area.

Sec. 5 **Status of Lands**. This Order will not affect the current status of lands with respect to their being withdrawn from or open to entry or leasing.

Sec. 6 **General Provisions**.

a. Issuance of Oil and Gas Leases. The Department of the Interior reaffirms its policy that the lease stipulations contained in the Order of the Secretary of the Interior, dated October 28, 1986, and corrected on August 26, 1987 (52 FR 32171), are necessary to protect the rights of the oil and gas and potash lessees and operators. Therefore, each successful applicant for a noncompetitive oil and gas lease, and any party awarded a competitive lease, for lands included in the Designated Potash Area, is required, as a condition to the issuance of such lease, to execute a stipulation to the lease as follows.

(1) Drilling for oil and gas shall be permitted only in the event that the lessee establishes to the satisfaction of the Authorized Officer, BLM, that such drilling will not interfere with the mining and recovery of potash deposits, or the interest of the United States will best be served by permitting such drilling.

(2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Authorized Officer, would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.

(3) When the Authorized Officer determines that unitization is necessary for orderly oil and gas development and proper protection of potash deposits, no well shall be drilled for oil or gas except pursuant to a unit plan approved by the Authorized Officer.

(4) The drilling or the abandonment of any well on said lease shall be done in accordance with applicable oil and gas operating regulations (43 CFR 3160), including such requirements as the Authorized Officer may prescribe as necessary to prevent the infiltration of oil, gas, or water into formations containing potash deposits or into mines or workings being utilized in the extraction of such deposits.

In addition, the Authorized Officer will include a lease provision which states that drilling for and production of oil and gas will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

b. Reinstatement or Renewal of Oil and Gas Leases. As a condition to the granting of any discretionary reinstatement or renewal of any existing lease that includes lands in the Designated Potash Area, the BLM will impose stipulations identical to those specified in Section 6.a.

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c. Potash Leases.

(1) All potash permits, licenses, and leases hereafter issued or existing potash leases hereafter readjusted for Federal lands within the Designated Potash Area, must be subject to a requirement, either to be included in the lease, license, or permit or imposed as a stipulation, that no mining or exploration operations may be conducted that, in the opinion of the Authorized Officer, will constitute a hazard to oil or gas production, or that will unreasonably interfere with orderly development and production under any oil and gas lease issued for the same lands.

(2) The BLM will continue to include applicable due diligence stipulations in all potash leases issued or readjusted after the date of this Order.

(3) Before being allowed to participate in a competitive lease sale, all bidders must certify in writing that they have an identifiable, substantial, and genuine interest in developing the potash resources and that they intend to develop the potash resources in accordance with the applicable diligence stipulations.

(4) In addition, the Authorized Officer will include a lease provision providing that potash mining operations will be subject to the terms of this Order, any subsequent revisions, and the orders of the Authorized Officer thereunder.

d. Delineation of Resource Areas. Each potash lessee must file annually by March 1, with the Authorized Officer, data and a map(s) on which has been delineated the following information with respect to the Federal, state, and private potash leases which the lessee then holds; and lands on which exploration activities have been conducted.

(1) Those areas where active mining operations are currently in progress in one or more ore zones;

(2) Those areas where operations have been completed in one or more ore zones;

(3) Those areas that are not presently being mined which are considered to contain Measured Reserves in one or more ore zones;

(4) Those areas that are not presently being mined which are considered to contain Indicated Resources in one or more ore zones;

(5) Those areas that are not presently being mined which are considered to contain Inferred Resources in one or more ore zones;

(6) Those areas that are considered to be Barren Areas;

(7) Those areas that are Unknown Areas; and

(8) Those areas that are planned to be mined as per a three-year mine plan.

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(9) The Authorized Officer will annually review the information submitted under this requirement and make any revisions to the boundaries of Measured Reserves, Indicated Resources, Inferred Resources, Barren Areas, and Unknown Areas. Upon verification, the Authorized Officer will commit the initial findings to a map(s) of suitable scale and will thereafter revise that map(s) as necessary to reflect the latest available information.

e. Oil and Gas Drilling.

(1) Drilling within the Designated Potash Area. It is the intent of the Department of the Interior to administer oil and gas operations throughout the Designated Potash Area in a manner which promotes safe, orderly co-development of oil, gas, and potash resources. It is the policy of the Department of the Interior to deny approval of most applications for permits to drill oil and gas wells from surface locations within the Designated Potash Area. Three exceptions to this policy will be permitted if the drilling will occur under the following conditions from:

(a) a Drilling Island associated with a Development Area established under this Order or a Drilling Island established under a prior Order;

(b) a Barren Area and the Authorized Officer determines that such operations will not adversely affect active or planned potash mining operations in the immediate vicinity of the proposed drill-site; or

(c) a Drilling Island, not covered by (a) above, or single well site established under this Order by the approval and in the sole discretion of the Authorized Officer, provided that such site was jointly recommended to the Authorized Officer by the oil and gas lessee(s) and the nearest potash lessee(s).

(2) Development Areas.

(a) When processing an application for permit to drill (APD) an oil or gas well in the Designated Potash Area that complies with regulatory requirements, the Authorized Officer will determine whether to establish a Development Area in connection with the application, and if so, will determine the boundaries of the Development Area and the location within the Development Area of one or more Drilling Islands from which drilling will be permitted. The BLM may also designate a Development Area outside of the APD process based on information in its possession, and may modify the boundaries of a Development Area. Existing wells may be included within the boundaries of a Development Area. A Development Area may include Federal oil and gas leases and other Federal and non-Federal lands.

(b) After designating or modifying a Development Area, the BLM will issue a Notice to Lessees, consistent with its authorities under 43 CFR Subpart 3105 and part 3180, informing lessees that future drilling on lands under an oil and gas lease within that Development Area will:

(i) occur, under most circumstances, from a Barren Area or a Drilling Island within the Development Area; and

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(ii) be managed under a unit or communitization agreement, generally by a single operator, consistent with BLM regulations and this Order. Unit and communitization agreements will be negotiated among lessees. The BLM will consider whether a specific plan of development is necessary or advisable for a particular Drilling Island.

(c) The Authorized Officer reserves the right to approve an operator or successor operator of a Development Area and/or a Drilling Island, if applicable, to ensure that the operator has the resources to operate and extract the oil and gas resources consistent with the requirements of this Order and all applicable laws and regulations, and has provided financial assurance in the amount required by the Authorized Officer.

(d) The Authorized Officer will determine the appropriate designation of a Development Area in terms of location, shape, and size. In most cases, a single Drilling Island will be established for each Development Area. In establishing the location, shape, and size of a Development Area and an associated Drilling Island, the Authorized Officer will consider:

(i) the appropriate location, shape, and size of a Development Area and associated Drilling Island to allow effective extraction of oil and gas resources while managing the impact on potash resources;

(ii) the application of available oil and gas drilling and production technology in the Permian Basin;

(iii) the applicable geology of the Designated Potash Area and optimal locations to minimize loss of potash ore while considering co-development of both resources;

(iv) any long term exploration and/or mining plans provided by the potash industry;

(v) whether a Barren Area may be the most appropriate area for a Drilling Island;

(vi) the requirements of this Order; and

(vii) any other relevant factors.

(e) As the Authorized Officer establishes a Development Area, the Authorized Officer will more strictly apply the factors listed in Section 6.e.(2)(d), especially the appropriate application of the available oil and gas drilling and production technology in the Permian Basin, when closer to current traditional (non-solution) potash mining operations. Greater flexibility in the application of the factors listed in Section 6.e.(2)(d) will be applied further from current and near-term traditional (non-solution) potash mining operations. No Drilling Islands will be established within one mile of any area where approved potash mining

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operations will be conducted within 3 years consistent with the 3-year mine plan referenced above (Section 6.d.(8)) without the consent of the affected potash lessee(s).

(f) The Authorized Officer may establish a Development Area associated with a well or wells drilled from a Barren Area as appropriate and necessary.

(g) As part of the consideration for establishing Development Areas and Drilling Islands, the BLM will consider input from the potash lessees and the oil and gas lessees or mineral right owners who would be potentially subject to a unitization agreement supporting the Development Area, provided that the input is given timely.

(3) Buffer Zones. Buffer Zones of ¼ mile for oil wells and ½ mile for gas wells are hereby established. These Buffer Zones will stay in effect until such time as revised distances are adopted by the BLM Director or other BLM official, as delegated. However, the Authorized Officer may adjust the Buffer Zones in an individual case, when the facts and circumstances demonstrate that such adjustment would enhance conservation and would not compromise safety. The Director will base revised Buffer Zones on science, engineering, and new technology and will consider comments and reports from the Joint Industry Technical Committee and other interested parties in adopting any revisions.

(4) Unitization and Communitization. To more properly conserve the potash, oil, and gas resources in the Designated Potash Area and to adequately protect the rights of all parties in interest, including the United States, it is the policy of the Department of the Interior that all Federal oil and gas leases within a Development Area should be unitized or subject to an approved communitization agreement unless there is a compelling reason for another operating system. The Authorized Officer will make full use of his/her authorities wherever necessary or advisable to require unitization and/or communitization pursuant to the regulations in 43 CFR Subparts 3105 and 3180. The Authorized Officer will use his/her discretion to the fullest extent possible to assure that any communitization agreement and any unit plan of operations hereafter approved or prescribed within the Designated Potash Area will adhere to the provisions of this Order. The Authorized Officer will work with Federal lessees, and with the State of New Mexico as provided below, to include non-Federal mineral rights owners in unit or communitization agreements to the extent possible.

(5) Coordination with the State of New Mexico.

(a) If the effective operation of any Development Area requires that the New Mexico Oil Conservation Division (NMOCD) revise the State's mandatory well spacing requirements, the BLM will participate as needed in such a process. The BLM may adopt the NMOCD spacing requirements and require lessees to enter into communitization agreements based on those requirements.

(b) The BLM will cooperate with the NMOCD in the implementation of that agency's rules and regulations.

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(c) In taking any action under Section 6.e. of this Order, the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.

(6) Approvals of Exploration on Existing Potash Leases and Potash Exploration Licenses.

(a) Exploration for potash on lands leased for potash is permitted only with approval by the BLM, in consultation and coordination with the potash lessee, of an exploration plan in accordance with 43 CFR Subpart 3592 and subject to the terms and conditions of the potash lease.

(b) An oil and gas or potash operator may apply for an exploration license to drill core holes necessary to define the absence or existence and extent of mineable potash reserves in areas within the Designated Potash Area. Exploration licenses allow the exploration of known, unleased mineral deposits to obtain geologic, environmental, and other pertinent data concerning the deposit. See 43 CFR Subpart 3506. These licenses can be obtained from the Carlsbad Field Office, BLM. Costs for such exploration may be shared consistent with the provisions of 43 CFR 3506.14, if applicable.

(c) Should an oil and gas or potash operator desire to attempt to gather sufficient data for the BLM to establish a Barren Area in any part of the Designated Potash Area not defined as Barren, provisions and protocols are included in this Order for the operator to review relevant data in the area to design a core acquisition program (see Section 6.e.(8)(b) and (c) of this Order) and to obtain access to the land to acquire core data (see Section 6.e.(6)(b)). The BLM will develop and employ, as appropriate, data management protocols to protect the appropriate use of the data in its records. The BLM will use such newly acquired data to determine the resulting potash ore quality and make any changes to potash reserves and resources maps indicated by the new data.

(7) Notice to Affected Parties. An applicant for an Application for Permit to Drill (APD), or a proponent of a plan of development for a unit or communitization area or a proposal for a Development Area or a Drilling Island, will provide notice of the application, plan, or proposal to the potash lessees and potash operators in the Designated Potash Area and to the owners of the oil and gas rights and surface owners affected by such application, plan, or proposal. A list of current potash lessees and potash operators will be available and maintained by the Carlsbad Field Office, BLM. The BLM will assist to the extent possible in identifying the oil and gas and surface owners affected by the application, plan, or proposal. This notice should be prior to or concurrent with the submission of the application, plan, or proposal to the BLM. The BLM will not authorize any action prior to this notice.

(8) Access to Maps and Surveys.

(a) Well records and survey plats that an oil and gas lessee is required to file pursuant to applicable operating regulations (43 CFR Subpart 3160) will be available for inspection at the Carlsbad Field Office, BLM, by any party holding a potash permit or lease on

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the lands on which the well is situated insofar as such records are pertinent to the mining and protection of potash deposits.

(b) Maps of mine workings and surface installations and records of core analyses that a potash lessee is required to file pursuant to applicable operating regulations (43 CFR 3590) will be available for inspection at the Carlsbad Field Office, BLM. These records are available for viewing by any party holding an oil and gas lease on the same lands insofar as such records are pertinent to the development and protection of oil and gas deposits.

(c) In order for an oil and gas or potash operator to establish and design a core acquisition program for the purposes of proving a Barren Area, those records of core analyses in the area of the planned program that are necessary to design that program should be provided in a timely fashion by the BLM to the operator of the planned program to the extent allowed by law, subject to data management protocols as referenced in Section 6.e.(6)(c), and consistent with 43 C.F.R. Part 2 and Sections 3503.41-.43. The BLM will use all data available to it when delineating Barren Areas.

(d) Maps of potash reserves and resources prepared under the provisions of Section 6.d. will be available for inspection in the Carlsbad Field Office, BLM. Digital copies of these maps will be available by mail or at these offices by May 1 of each year. Maps of established Development Areas will be updated as new Development Areas are established. Maps of Development Areas will be provided in a timely fashion by the BLM upon request.

Sec. 7 **Regulatory and Administrative Matters.**

a. This Order applies to the exercise of all existing leases in the Designated Potash Area in conformity with lease stipulations and Federal law.

b. Except to the extent otherwise provided by this Order, the regulations contained in 43 CFR Part 3100 and Subparts 3160 and 3180 (governing the leasing and development of oil and gas) and 43 CFR Part 3500 and Subpart 3590 (governing the leasing and development of potash deposits), remain applicable to the lands covered by this Order.

c. In implementing this Order, the BLM is authorized to exercise its discretion through any and all appropriate means, including rulemaking, notices to lessees, and orders of the Authorized Officer.

d. The BLM will obtain and use the best science available when administering this Order consistent with Departmental Manual chapters 305 DM 2 and 305 DM 3. The BLM will comply with the requirements of Secretary's Order 3305, Ensuring Scientific Integrity within the Department of the Interior, dated September 29, 2010. The BLM has previously used Sandia National Laboratories to provide unbiased technical assistance in administering the Designated Potash Area and may continue to do so, if the BLM, consistent with all applicable laws, so chooses.

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e. The BLM will develop guidelines consistent with this Order for establishing Development Areas and Drilling Islands. In developing such guidelines, the BLM may consider comments and reports from the Joint Industry Technical Committee and other interested parties.

f. The BLM will develop appropriate time-frame guidelines and requirements, as appropriate, to enable timely actions pursuant to this Order.

Sec. 8. **The Designated Potash Area Legal Description**.

New Mexico Principal Meridian

T. 22 S., R. 28 E.,
secs. 25 and 36.

T. 23 S., R. 28 E.,
sec. 1.

T. 19 S., R. 29 E.,
secs. 1 and 2;
secs 11 to 15, inclusive;
secs. 22 to 27, inclusive;
secs. 35 and 36.

T. 20 S., R. 29 E.,
secs. 1 and 2;
secs. 11 to 15, inclusive;
secs. 22 to 27, inclusive;
secs. 34 to 36, inclusive.

T. 21 S., R. 29 E.,
secs. 1 to 5, inclusive;
secs, 10 to 15, inclusive;
secs. 22 to 27, inclusive;
secs. 34 to 36, inclusive.

T. 22 S., R. 29 E.,
secs. 1 to 5, inclusive;
secs. 8 to 17, inclusive;
secs. 19 to 36, inclusive.

T. 23 S., R. 29 E.,
secs. 1 to 17, inclusive;
secs. 21 to 28, inclusive;
secs. 33 to 36, inclusive.

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T. 24 S., R. 29 E.,
secs. 1 to 4, inclusive.

T. 18 S., R. 30 E.,
secs. 8 to 17, inclusive;
secs. 20 to 29, inclusive;
secs. 32 to 36, inclusive.

T. 19 S., R. 30 E.

T. 20 S., R. 30 E.

T. 21 S., R. 30 E.

T. 22 S., R. 30 E.

T. 23 S., R. 30 E.

T. 24 S., R. 30 E.,
secs. 1 to 18, inclusive.

T. 19 S., R. 31 E.,
secs. 7 and 18;
secs. 31 to 36, inclusive.

T. 20 S., R. 31 E.

T. 21 S., R. 31 E.

T. 22 S., R. 31 E.

T. 23 S., R. 31 E.

T. 24 S., R. 31 E.,
secs. 1 to 18, inclusive;
secs. 35 and 36.

T. 25 S., R. 31 E.,
secs. 1 and 2.

T. 19 S., R. 32 E.,
secs. 25 to 28, inclusive;
secs. 31 to 36, inclusive.

T. 20 S., R. 32 E.

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T. 21 S., R. 32 E.

T. 22 S., R. 32 E.,
secs. 1 to 12, inclusive.

T. 19 S., R. 33 E.,
secs. 21 to 36, inclusive.

T. 20 S., R. 33 E.

T. 21 S., R. 33 E.

T. 22 S., R. 33 E.,
secs. 1 to 12, inclusive.

T. 19 S., R. 34 E.,
secs. 19 and 20;
secs. 29 to 32, inclusive.

T. 20 S., R. 34 E.,
secs. 3 to 10, inclusive;
secs. 15 to 36, inclusive.

T. 21 S., R. 34 E.,
secs. 5 to 8, inclusive;
secs. 17 to 20, inclusive;
secs. 29 to 32, inclusive.

T. 22 S., R. 34 E.,
sec. 6.

The area described, including public and non-public lands, aggregates 497,002.03 acres, more or less.

Sec. 9 **Administrative Provisions.** The Director, BLM, is authorized to delegate responsibilities herein as is determined appropriate. This Order will remain in effect until superseded, replaced, or incorporated into the Departmental Manual.

Ken Salazar

Secretary of the Interior

Date: December 3, 2012

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Joint Industry Technical Committee Meeting Notes
October 6, 2021

Meeting held at NOMGA Office, 123 W Booth Street, Santa Fe, New Mexico

Deliverables / Follow Ups in **Red**
Future Meeting dates in **Green**

9:10 am

Call meeting; designate scribes as Jesse Chando (in-person) and Susan Maunder (via Zoom).
Roll Call – attendee list provided below

9:20 am

Review agenda for today's meeting
Review of minutes from last meeting August 4, 2021; no questions; moved, seconded, approved to accept the meeting minutes.

9:25 am

Review Draft Governance Document – review of document including changes; definitions were "reordered" for clarity;

- Reviewed definitions in Article III; no comments
- Reviewed Article IV; voting memberships reviewed closer with voting percentages for passing motions. Confirmed 2/3rds voting member requirements for oil and gas and 3/4ths for Potash (3/4ths given two Potash companies with 4 total voting members).
- Reviewed Articles V-XII; no comments during initial run through.
    - Comment from one company (Intrepid) would like to offer comments on membership sections.
    - Governance Document is tabled until the next meeting; suggestion is to not wait until next meeting and email distribution for changes. All attendees requested to send suggested Governance Document wording changes to Robert Baldridge. Holidays approaching so early November side meeting to be scheduled; **November 3rd 10 am CST to finalize Governance Document (Zoom meeting)**.

9:40 am

Produced Water Recycling Group – motion from Patrick Padilla (EOG) to move to Well Integrity Work Group discussion to ensure NMOCD presence; no objections.

9:45 am

Well Integrity Work Group - James Griffin (EOG) provided overview of R-111P changes through various meetings throughout the months of August and September.

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Several improvements have been made; resulting in more robust technical and operational requirements due to six main changes:

- Well casing and tubulars: Removed the use of used tubulars; clearly stipulated new casing on all strings that meets API specifications
- Combined salt & Capitan Reef string in some cases: combined casing string in order to drill many of the deeper targets; driven by technical competency and casing design considerations
- Increased cementing technical and operational requirements: added significantly more robust cementing requirements including but not limited to slurry property, lab testing, minimum compressive strengths, and operational practices.
- Redundant pressure release mechanism to protect salt zone in the unlikely evebt of a casing failure during completion operations in the form of:
    - Downhole engineered weak point – rupture disk or an interval of casing with lower relative strength than the casing protecting the salt section (e.g. a section of 80 ksi yield strength casing on the bottom portion of a 110 ksi yield strength string)
    - Un-cemented casing shoe (no cement tie-back) to allow pressure relief in a controlled manner through surface equipment– with subsequent cement remediation to occur after completion no later than 180 days
- Mechanical pop off release on completions operations: hydraulic fracturing pressure release set at a maximum of 85% of the production casing designed burst load
- Annulus pressure notification: Increase communication between industries so that there is notification of Potash companies in the event of a sustained increase in annulus pressure between the 1st intermediate casing string and the next innermost casing string:
    - In excess of 500 psi over well baseline
    - Or above 1500 psi total
- Overall comment around restructuring the document for clarity as well as the inclusion of well diagrams for each well design and subsurface scenario.

9:55am

Discussion post James' introduction of six improvement areas

- Dan Morehouse (Mosaic) noted that the R-111P changes are an improvement
- Will Fenley (Intrepid) note the document changes are a vast improvement but take pause on the Capitan Reef three string well design and would like to understand more about the engineered weak point and implications of injection into the Delaware Mountain Group.
- Will Fenley (Intrepid) commented that Intrepid would like to "stress test" the R-111P changes with an unbiased third party.
- Jason Gahr (ExxonMobil) questioned who Intrepid would like to lead the study – general discussion around the room on universities; little interest in Sandia; concerns about timing and scope raised by several JITC attendees

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- Patrick Padilla (EOG) inquired about the timing of the study and impact on document completion; also relayed experience with several studies that have been ongoing "for years."
- Brian Stone (Intrepid) reiterated unbiased science approach and mentioned that Sandia lab could be used as independent reviewer of document.
- Robert Baldridge (Intrepid) commented that the Well Integrity Work Group has done an outstanding job and promoted significant collaboration. We should not hold up progress but reiterated desire for a third party to assess the document. Nothing prevented the improved standard from being followed while a third party study was conducted.
- Jason Gahr reiterated timelines and that the R-111P revisions have been under discussion for over 4 years. Both oil & gas and Potash want to have consistency but in the absence of a unanimously agreed document and operators could commit to voluntary operate within the higher standards and framework of the document as it stands now. Uncertainty undermines the JITC mandate to improve safety across all operators.
- Jason Gahr motioned for oil and gas operators to voluntarily abide by the improved document and self-regulate.
- Dan Morehouse provided comments that the document is definite improvement, and that "we all" feel that following draft guidelines is an upgrade and doesn't think it makes anything worse from a risk standpoint. Recommended following draft guidelines while moving forward with the independent study.
- John Smitherman (NMOGA) recommends using a private firm for the study.
- Patrick Padilla expressed concern for timing on Sandia lab turn around; hesitant to go with national, academic organization; other option would be to identify engineering firm

10:15 am

Jason Gahr re-casted the motion for oil and gas operators to voluntarily follow the updated R-111P document and self-regulate until an independent party study is completed. Posed question: Are you as an oil and gas operator agreeable to proceeding under the R-111P draft updates?

Operator responses:

- EOG – Yes
- ExxonMobil – Yes
- Mewbourne – Yes
- Oxy – Have follow up questions to resolve
- Chevron – Yes
- ConocoPhillips – Need to confirm with drilling representative (not in attendance)
- Novo – Yes
- Titus – not present
- Devon – not present

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Motion to document oil and gas operator agreement or disagreement formally via email response by October 15th.

NMOCD would like the opportunity to comment on the document. Understood that OCD has the authority to approve or deny APDs. OCD has the 2019 version of IM.

Request by NMOCD to receive a copy of the R-111P draft document and example wells drilled with proposed well designs for their awareness. James Griffin will send penultimate draft of R-111P document to Jason Gahr for distribution to NMOCD and BLM.

10:50 am

BLM Internal Memo discussion - Jim Rutley (BLM) provided summary of the document and current draft changes.

- Intro: 140 DAs proposed since 2014 with 110 approved and 30 currently in review.
- Reviewed APD, DI and DA review process
- BLM wanted to discuss the buffer zones (D.1.(a)); potash companies wanted notification of lost returns events; particularly in the salt section; buffer for notification would be if operator is within 1-mile; Potash is not comfortable with distance, would prefer more; also discussed what volume of fluid loss would trigger notification.
- Operators are likely to see these as Condition of Approval; current mine contacts for specified losses need to be included in COA
- DA notification for onsites is still going to be 2-mile radius
- Protest timing increased from 30-days to 60-days to better coordinate and manage work load.
- In the event of a protest there is a 90-day window, there is also the opportunity for 60-day extension.
- BLM advised that they received 6 DA applications last month; they are currently managing 30 protests. There will be a deadline for operators to manage/resolve protests.
- Operator who is protested has ~90-150 days to reach resolution.
- Jason Gahr and Robert Baldridge requested mine contacts (contact person and phone number) be provided in writing on return application.
- DA expiration is 5-year; previous approved DA will have seven-year retroactive to date of approval.
- It is possible BLM will approve "overlapping" DA to further development.
- Noted that document incorporates multiple comments around buffer zones.
- Discussed the notification protocols and that they were slightly inconsistent with the latest draft R-111P

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James Griffin to provide updated notification protocols from R-111P draft document to BLM for inclusion in the IM.

- Discussed protest response timing changes as well as noting that timing clock begins upon receipt of notification (confirmed via certified mail).
- Discussed definition of the top of the 3rd Bone Spring Limestone mapped across the different areas of the KPLA.

Follow up to add original Devon reference well in 23S/31E to current IM revision and update the cross section map (BLM action).

Jim Rutley closed with forward plan to clean up the final Internal Memo updates and that he will aim to complete by November 1st with an updated drill island development map.

11:20 am

Produced Water Recycling (Patrick Padilla)

- Introduced discussion by naming companies / parties that took interest in the topic: ConocoPhillips, EOG, ExxonMobil, Mewbourne, Mosaic, Intrepid
- Two topics which could be worked within the group are:
  - Seismicity, injection wells, produced water interplay
  - Exploring surface water discharge outside of the oilfield
- General discussion on that this sub-team does not want to duplicate efforts of other groups; want to keep focus on Potash area related opportunities
- Results from Produced Water Consortium (PWC) could influence the focus for the group
- John Smitherman noted that NMOGA does have Seismicity group; they are also involved in PWC; working w/NMOCD on developing protocols; NMOCD needs enforceability; are considering sensitivities in potash area; suggested that Potash companies need to be at the "NMOGA" table
- John Smitherman also noted that he does not see an explicit role of the JITC in surface water discharge or produced water usage
- Robert Baldridge noted that the focus could be more operational in nature; including but not limited to water management and treating produced water so that it could be used in Potash processes
- Multiple group members discussed the numerous SWD wells which are being proposed around mines; potash companies don't want to be a roadblock, but also concerned for their operations; uncertainty about produced water characteristics post frac.

Patrick Padilla will work on problem statement for produced water recycling related to potential clean-up of produced water; opportunity may exist to work with PWC. Include sub-

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tasks and then test vs. the NMOGA consortium efforts to ensure no duplication of efforts (target before year end)

11:50 am

Request for **Any Other Business** – None

Reviewed **Future Agenda Topics**

- Produced Water Recycling Work Group problem statement (Padilla)
- Proposal on 3rd party R-111P review including problem statement, cost estimate, scope of deliverables – will discuss who sponsors cost at next meeting
- Select and communicate 2 clear co-chairs for Well Integrity Work Group
- Arrange for M. Hightower of the Produced Water Consortium to attend next meeting
- Propose attendee list clean up – suggestion was to remove those that have not attended the last three JITC meetings

Future Meetings:

Well Integrity Work Group Meeting: **October 26th** in Midland, 9 am Central at XTO office

Governance Document Virtual Meeting: **November 3rd**, 9 am Central Zoom meeting

Next JITC Meeting: **January 19th** in Midland, 9 am Central at EOG office

Adjourn 12 am

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Meeting Attendees

	Attendance 9/6/2021
BLM - Cody Layton	x
BLM - Chris Armisted	x
BLM - Jim Rutley	x
BLM - Jim Stovall	x
BLM - Tye Bryson	x
Conoco - Susan Maunder	phone
EOG - James Griffin	x
EOG - Patrick Padilla	x
Exxon - Jason Gahr	x
Exxon - Jesse Chando	x
Intrepid - Brian Stone	phone
Intrepid - Robert Baldridge	x
Intrepid - Travis McBain	x
Intrepid - Will Fenley	x
Matador - Cade LaBolt	phone
Mewbourne - Corey Mitchell	x
Mewbourne - Travis Cude	x
Mosaic - Dan Morehouse	x
Mosaic - Ric Bell	x
NMOGA - John Smitherman	x
Novo - Kurt Shipley	x
Oxy - Danny Holderman	phone
Oxy - Garrett Granier	phone
Oxy - Greg Caraway	phone
pbEX - James Clark	x
NMOCD - Phil Getz	x
NMOCD - Tiffany Pollach	x
NMOCD - Brandon Powell	phone
NMOCD - Adrienne Sandoval	phone

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WORKING DRAFT – November 4, 2021

Background

The Joint Industry Technical Committee (JITC) was created to study how concurrent development of the potash and oil and gas industry can be safely performed in proximity to each other. The JITC commissioned the JITC Well Integrity Sub Committee (JITC WISC) to develop a set of additional recommendations and mitigations for consideration to further support safe, concurrent development of the potash and oil and gas industries for drilling operations within the KPLA. These recommendations could then be used as a basis for updating the existing R-111-P document written in 1988.

The JITC WISC initially reviewed the potential risks of concurrent operations from oil and gas development and Potash extraction mining within the Known Potash Leasing Area (KPLA). The JITC-WISC, in consultation with additional drilling experts from participating oil and gas and Potash companies, then generated six key scenarios with potential negative interactions between the oil and gas operators and mining operators.

These scenarios were studied in detail and based on the latest drilling best practices of the oil and gas companies within the JITC, and best available technology, appropriate operating best practices and mitigations were identified to appropriately manage risk moving forward. The six scenarios are listed below, the detailed discussion and report on the six scenarios is found in Appendix B. (All listed casing sizes are suggested, typical sizes only)

Hazard Scenario #1 – Water flowing down past surface casing shoe

- Preventing water flowing from a zone above the salt down to the salt interval due to lack of cement placement or channeling of cement around the surface casing and 1st intermediate casing which serves as the salt string

Hazard Scenario #2 – Offset well penetration either during salt zone operation or below the salt string to the base of the intermediate casing

- Preventing the drill bit penetrating an offset well leading to a gas influx and broaching at the intermediate casing shoe (salt string) and gas leaks into the mine

Hazard Scenario # 3 - Cement barrier integrity failure

- Preventing eventual communication of gas zone(s) to mine via channels, micro-annuli, or other void spaces in production, 1st intermediate (salt string), and 2nd intermediate (if applicable) hole casing annuli due to inadequate cementing practices

Hazard Scenario # 4 – Gas leaks through casing into mine

- Preventing gas (gas lift gas, gas from tubing leak, or gas from a production casing string that is failed during hydraulic fracturing operations) leaks through production casing into the 2nd intermediate casing if present, then into the salt casing string entering the

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borehole either at the mining level or is able to migrate to the mining level. Gas then travels into the mine from the borehole through the buffer zone

Hazard Scenario # 5 - Casing failure due to mine subsidence

- Implementing mitigations to ensure ground movement does not lead to failed intermediate or production casing.

Hazard Scenario # 6 - Drilling with vugular or fracture type lost returns

- Preventing mud losses while in the salt interval which could result in propagation of drilling fluids into mine exposing miners to hazards and potentially leaves a pathway that could be a conduit for hydrocarbon migration

The JITC-WISC with technical experts from both oil and gas companies and Potash operators met periodically from March 2018 to October 2019 to review these scenarios and agree on a set of mutually acceptable best practices to allow for safe and responsible development of both oil and gas and Potash from within the KPLA over the coming decades.

This document outlines the existing Order R-111-P dated from 1988, and includes the additional recommendations made by the JITC-WISC as potential revisions to the existing Order R-111-P for consideration by the main JITC to progress further as a regulatory recommendation to the Bureau of Land Management and the New Mexico Oil and Gas Conservation Division as desired.

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Proposed & Updated R-111-P (R-111-Q)

IT IS THEREFORE ORDERED THAT:

This order shall be known as The Rules and Regulations Governing the Exploration and Development of Oil and Gas in Certain Areas Herein Defined, Which Are Known To Contain Potash Reserves.

A. Objective

The objective of these rules and regulations is to prevent waste, protect correlative rights, assure maximum conservation of the oil, gas and potash resources of New Mexico, and ensure the safe, economic recovery of oil, gas and potash minerals in the area hereinafter defined.

B. The Potash Area

1) The Potash Area, as described in Exhibit C, attached hereto and made a part hereof, represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves. Such area is conterminous with the Known Potash Leasing Area (KPLA) as determined by the US Bureau of land Management (BLM).

2) The Potash Area, as described in Exhibit C may be revised by the Division after due notice and hearing at the regular pool nomenclature hearings, to reflect changes made by BLM in its KPLA.

C. Drilling in the Potash Area

1) All drilling of oil and gas wells in the Potash Area shall be subject to these rules and regulations.

2) No wells shall be drilled for oil and gas at a location which, in the opinion of the Division or its duly authorized representative, would result in undue waste of potash deposits or constitute a hazard to or that would unreasonably interfere with the orderly mining of potash deposits.

   No mining operations shall be conducted in the Potash Area that would, in the opinion of the Division or its duly authorized representative, constitute a hazard to oil and gas production, or that would unreasonably interfere with the orderly development and production from any oil and gas pool.

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3) Upon discovery of oil and gas in the Potash area, the Oil Conservation Division may promulgate pool rules for the affected area after due notice and hearing in order to address conditions not fully covered by these rules and the general rules.

4) The Division's District Supervisor may waive the requirements of Sections D and F which are more rigorous than the general rules upon satisfactory showing that a location is outside of the Life of Mine Reserves and surrounding buffer zone as defined herein below that no commercial potash resources will be unduly diminished or upon the showing of other adequate justification for waiver.

5) Encounters during drilling operations with flammable gas, including hydrogen sulfide, other than normal drill gas from known gas bearing intervals shall be reported immediately to the appropriate OCD District office followed by a written report of the same. Drill gas is the gas released from the pore space in the volume of rock drilled.

D. Drilling and Casing Program

1) Anti-collision Measures

a) While drilling, operators will monitor separation distance to offset. Operators will maintain a Separation factor (SF) greater than 1.0 for any active wells (capable of natural free flowing or on active gas lift). The operator will use discretion for non-active wells.

b) If the SF for any active well projected to the next survey point is equal to or less than 1.0 SF while drilling through the potash interval.

i. The applicable offset active well(s) will be shut-in (if well is on active gas lift, shut in and bleed off gas lift pressure from casing) and monitor the applicable annulus continuously in the event that corrections cannot be made.

ii. Drilling must cease and efforts made to correct/alter the well path so the SF becomes greater than 1.0. Setting a plug in the offset active well below the estimated intercept depth should be considered.

i. If SF drops below 1.0, monitoring magnetic interference and ranging away from the offset well shall be considered an acceptable well path correction.

iii. If offset wells are owned by another operator and have a planned SF equal to or less than 1.1, efforts shall be made to make contact and raise awareness prior to commencing drilling.

iv. Prior to requesting another operator to shut in a well, efforts shall be made to reduce the drilling well Ellipse of Uncertainty (EOU) through the use of MWD corrections (SAG, IFR, one Gyro run, etc.).

c) In the case where laterals are stacked and the TVD separating the lateral wellbores is less than or equal to 50', corrections should be considered if SF's fall below 1.0 in the lateral

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according to directional plans. All laterals must be geo-steered to control lateral placement in the vertical plane.

d) Operators will implement a survey tool QA/QC program consistent with applicable API and ISCWSA industry standards.

i. All wells shall include directional surveys with both inclination and azimuth and a maximum separation of 200' between survey points.

e) Operators will monitor for and document within a daily drilling summary or equivalent the following: erratic torque, standpipe pressure changes and other signs of collision.

2) Surface Casing String

a) A surface casing string of new oil field casing in good condition that meets API specifications shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and the cement shall be circulated to surface.

b) Ensure adequate surface casing centralization as follows:

i. 1 centralizer per joint across the shoe track

ii. 1 centralizer per 2 joints from casing shoe to the top of useable fresh water

iii. Not less than one centralizer every 3 joints for surface casing.

c) Cement shall be allowed to cure an adequate amount of time to allow for both the lead and the tail cement to reach 500 psi compressive strength before drilling or initiating pressure tests when lab tests for the specific cement slurry pumped are available. Lab testing shall be performed at 80º Fahrenheit.

d) Casing pressure tests shall be made before drilling below the casing seat or at the time of plug bump. The casing shall be tested to 0.22 psi per foot of casing string length or 1500 psi whichever is greater, but not to exceed 70% of casing burst as per Onshore Order No. 2.

e) Verify shoe integrity via a Formation Integrity Test (FIT). Surface applied pressure during the FIT should take into account the maximum anticipated equivalent mud weight that will be required to drill the next hole section.

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3) 1st Intermediate/Salt Protection String/Capitan Reef String if present

b) The 1st Intermediate string, also known as the salt protection string or the Capitan String if in the Capitan Reef Area, shall consist of new oil field casing in good condition that meets API specifications. The casing shall be set not less than one hundred (100) feet below the base of the salt section. The casing shall be set above the top of the highest known oil or gas zone.

c) For wells that are in the Potash area and the Capitan Reef is present (see Geographical Boundary - Figure E, Exhibit B in the Appendix) and the operator has the capacity to run a single intermediate string to cover both the Salt and the Reef, the 1st intermediate casing may be set not less than one hundred (100) feet below the base of the Capitan Reef formation. In addition, the operator must perform the following to not compromise the aquifer and ensure cement is returned to surface:

i. Drill with fully saturated Brine water or a Synthetic based fluid to ensure the Salt does not wash out and the Capitan Reef Aquifer is not compromised.

ii. If sustained losses occur in excess of 50% (when rate of drilling fluid returns is less than 50% of the pump rate due to excessive losses to formation), the operator shall swap from Brackish/Synthetic fluid to that of Fresh Water.

iii. If sustained losses occur in excess of 50%, Caliper Logs shall be ran to establish the proper placement of the Stage Tool and to ensure that the proper cement volume is pumped to get cement to surface.

iv. A Stage Tool is required to ensure cement to surface for wells with losses in excess of 50%.

d) With prior approval of the OCD district supervisor, the wellbore may be deviated from the vertical after completely penetrating Marker Bed No. 126 (USGS).

e) Ensure adequate 1st Intermediate Casing String casing centralization as follows:

i. 1 centralizer per joint across the shoe track

ii. Confirm the effectiveness of centralization program with cement placement simulations, but not less than one centralizer every 3 joints.

iii. Division, or its duly authorized representative, may require the use of additional centralizers on the salt protection string when in their judgement the use of such centralizers would offer further protection to the salt section.

f) The 1st Intermediate Casing String cement slurry shall have the following characteristics:

i. Cement should be a high sulfate resistance (HSR) slurry.

ii. Include a minimum of 10% (by weight of water) salt.

iii. Include an expansion additive (1 – 3% by weight of Magnesium Oxide or equivalent thereof).

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iv. Have free water separation of no more than two millimeters per 250 millimeters of cement tested in accordance with the current API RP 10B-2: Recommended Practice for Testing Well Cements (or any update thereto).

v. The zone of critical cement shall be the bottom 20% of the casing string, or 300 vertical feet above the casing shoe, whichever is less. The zone of critical cement shall have a 72 hour compressive strength of at least 1200 psi. For the zone of critical cement the test temperature shall be within 10 degrees Fahrenheit of the formation equilibrium temperature at the top of the zone of critical cement.

vi. Cement with volume extenders (filler cement) may be used above the zone of critical cement but in no case shall the cement have a compressive strength less than 500 psi the time of drill out. For the filler cement, the test temperature shall be the temperature found 100' below the ground level, or 80 degrees Fahrenheit, whichever is greater.

g) The 1st Intermediate Casing string shall be cemented as follows:

i. Cement shall be pumped with both a top and bottom plug to minimize cement contamination.

ii. Include a viscosified salt water spacer of higher density than the drilling fluid followed by enough cement to circulate to surface. Use enough spacer to cover a minimum 500-ft of annular length, check its compatibility with the mud and cement, and use surfactant spacer when displacing OBM (Oil Based Mud).

iii. Consider use of lightweight cement, diverter tools, ECPs (External Casing Packers) or other mitigation if losses are a concern during cementing.

iv. In the event the Capitan Reef is present, a Stage Tool will be required at a minimum to ensure Cement is circulated to Surface.

h) The 1st Intermediate Casing string must be cemented with sufficient cement to fill the annular space behind the pipe from the casing seat to the surface or to the bottom of the cellar. If the cement fails to reach the surface or the bottom of the cellar, the top of the cement shall be located by a temperature, cement bond log, or other survey and additional cementing shall be done until the cement is brought to the point required.

i) Cement shall be allowed to cure an adequate amount of time to allow both the lead and the tail cement to reach 500 psi compressive strength before drilling or initiating pressure tests when lab tests for the specific cement slurry pumped are available.

j) Casing tests shall be made before drilling below the casing seat or at plug bump. The casing shall be tested to 0.22 psi per foot of casing string length or 1500 psi whichever is greater, but not to exceed 70% of casing burst as per Onshore Order No. 2. If a drop of 10% or more should occur within thirty (30) minutes, corrective measures shall be applied.

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k) Verify shoe integrity via a Formation Integrity Test (FIT). Surface applied pressure during the FIT should take into account the maximum anticipated equivalent mud weight that will be required to drill the next hole section.

l) For all wells within the KPLA where a 2nd intermediate string will not be utilized resulting in a 3 String Design (Surface, Salt or Salt/Capitan Reef, Production), either of the following safeguards shall apply to safely divert flow of wellbore fluids away from the Salt Interval in the event of a catastrophic production casing failure. For both methods, the Surface Equipment utilized during stimulation operations should be designed to relieve pressure from the production x intermediate casing annulus below the burst threshold of the casing string components.

i. A monitored open annulus will be incorporated during completion by leaving the 1st Intermediate Casing x Production Casing annulus un-cemented and monitored inside the 1st Intermediate String. Reference wellbore diagram Figure A in Exhibit A of the Appendix.

i. The top of cement in the Production Casing x 1st Intermediate Casing Annulus shall stand uncemented at least 500' below the 1st Intermediate Casing Shoe. Zero percent excess shall be pumped on the Production Cementing Slurry to ensure no tie-back into the 1st Intermediate Casing Shoe.

ii. After Stimulation Operations have been concluded and no longer than 180 days after the well is brought online, the operator will be responsible for Bradenheading cement to ensure at least a 500' tie back has been established inside the 1st Intermediate (Salt String / Capitan String) but not higher than Marker Bed No. 126 (base of the Potash mining interval).

iii. The top of cement may be estimated through pumped displacement volumes or with the use of a fluid shot tool prior to filling backside with fluid.

ii. Alternatively, an engineered weak point shall be included in the 1st Intermediate String below the Salt Interval in the form of a lower strength casing or rupture disc to divert fluid into a suitable relief zone below the salt formation. Reference wellbore diagram Figure B in Exhibit A of the Appendix.

i. The 1st Intermediate Casing String's engineered weak point must be placed no less than 100' below the Salt or Capitan Reef if present.

ii. The top of cement in the Production Casing x 1st Intermediate Annulus must tie back at least 500' inside the 1st Intermediate (Salt String / Capitan String) but not higher than the engineered weak point as described in section 5.d on page 10.

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4) 2nd Intermediate String

a) The 2nd Intermediate string shall consist new oil field casing in good condition that meets API specifications, rated for the loads expected over the lifecycle of the well.

b) For all wells within the KPLA where a 2nd intermediate string will be utilized resulting in a 4 String Design (Surface, 1st Intermediate, 2nd Intermediate, Production), the following methods shall apply to safely divert flow of wellbore fluids away from the Salt Interval in the event of a catastrophic production casing failure. For both methods, the Surface Equipment utilized during stimulation operations shall be designed to relieve pressure from the production x intermediate casing annulus below the burst threshold of the casing string components.

i. A monitored open annulus will be incorporated by leaving the 1st intermediate (salt string / Capitan String) x 2nd intermediate annulus un-cemented and monitored inside of the 1st Intermediate String. Reference wellbore diagram Figure C in Exhibit A of the Appendix.

i. The top of cement in the 1st Intermediate (Salt String / Capitan String) x 2nd Intermediate Casing annulus shall stand un-cemented at least 500' below the 1st Intermediate Casing Shoe. Zero percent excess shall be pumped on the 2nd Intermediate Cementing Slurry to ensure no tie-back into the 1st Intermediate Casing Shoe.

ii. After Stimulation Operations have been concluded and no longer than 180 days after the well is brought online, the operator will be responsible for Bradenheading cement to ensure at least a 500' tie back has been established inside the 1st Intermediate (Salt String / Capitan String) but not higher than Marker Bed No. 126 (base of the Potash).

iii. The top of cement may be estimated through pumped displacement volumes or with the use of a fluid shot tool prior to filling backside with fluid.

ii. Alternatively, an engineered weak point shall be included in the 2nd Intermediate String below the Salt Interval in the form of a lower strength casing or rupture disc to divert fluid into a suitable relief zone below the salt formation. Reference wellbore diagram Figure D in Exhibit A of the Appendix.

i. The 2nd Intermediate Casing String's engineered weak point must be placed no less than 100' below the Salt or Capitan Reef if present.

ii. The top of cement must tie back at least 500' inside the 1st Intermediate (Salt String / Capitan String) but not above the Marker Bed No. 126.

c) Casing tests shall be made before drilling below the casing seat or at plug bump. The casing shall be tested to 0.22 psi per foot of casing string length or 1500 psi whichever is

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greater, but not to exceed 70% of casing burst as per Onshore Order No. 2. If a drop of 10% or more should occur within thirty (30) minutes, corrective measures shall be applied.

d) Cement shall be allowed to cure an adequate amount of time to allow tail cement to reach 500 psi compressive strength before drilling or initiating pressure tests when lab tests for the specific cement slurry pumped are available. Lab testing criteria shall be performed at bottom hole static temperatures of the anticipated casing seat.

e) Verify shoe integrity via a Formation Integrity Test (FIT). Surface applied pressure during the FIT should take into account the maximum anticipated equivalent mud weight that will be required to drill the next hole section.

f) If sustained annular pressure build-up in the 1st Intermediate (Salt String / Capitan String) x 2nd Intermediate annulus occurs in excess of 500 psi while the well is being drilled, the operator will bleed off this pressure safely and establish a plan to safely manage the annular pressure. Maximum Allowable Wellhead Operating Pressure (MAWOP) = the lesser of:

i. 50% of the MIYP of Pipe Body of Intermediate Casing String being evaluated

ii. 80% of the MIYP of Pipe Body of the next outer casing string

iii. 75% of the Minimum Collapse Pressure of the Production Casing.

5) Production Casing String

a) The Production string should consist of new oil field casing in good condition that meets API specifications.

b) Production casing design considerations:

i. Ensure production casing and connections are properly designed to handle all completion and production loads. Combined Von Mises Equivalent stress loading as well as cyclical fatigue should also be considered.

ii. Production casing should be selected to perform as designed in all the anticipated environments that may be encountered during the life of the well.

c) Production casing make-up shall be monitored, recorded, and documented.

d) The top of cement will consist of at least a 500’ tie back inside the last Intermediate casing string but not higher than Marker Bed No. 126 (base of the Potash) or an engineered weak point if present. If an un-cemented shoe is utilized, reference 3.k.i on page 8 for top of cement requirements before and after stimulation.

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i. Maximum FL 150 cc/30min zero FW @ 45 degree angle.

ii. Utilize a viscous weighted spacer with surfactants that are effective at water wetting the wellbore.

e) Pressure test production casing strings to operating pressures for a minimum of 30 minutes that are anticipated during fracture stimulation as well as during the production lifecycle of the well.

f) The production casing x intermediate annulus will be monitored for pressure during frac operations. During frac operations, a pressure relief valve or appropriate venting system must be installed to relieve pressure in the event of a production casing failure.

g) Emergency pump shutoff system is to be used to prevent system overpressure during completion operations and shall be set not more than 85% of the pipe body and/or connection internal yield pressure.

E. Drilling Fluid for 1st Intermediate Casing String

a) The fluid used while drilling the salt section shall consist of water, to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture or non-aqueous drill fluid. Other additives may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically intended to prevent enlarged drill holes.

F. Potash Company Resolution

Any operator within the KPLA must notify both Intrepid and Mosaic as soon as possible if any of the following conditions are encountered during oil and gas operations:

i. Notable water flow outside of casing in the salt formation
ii. Indication of any well collision event
iii. Indication of any notable well fluid flow outside of casing
iv. Sustained annulus pressure between the 1st Intermediate and next innermost casing string in excess of 500 psi above the baseline pressure of the well, or above 1500 psi total.
v. Sustained losses in excess of 50% through the salt interval

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G. Subsidence Monitoring

a) For a well or group of wells drilled with surface locations within 1 mile of an existing mine or planned mine activity as defined in 3 year development plans, subsidence should be monitored to provide an early warning of conditions that may threaten the integrity of active wells. Devices or methods providing subsidence measurement at the surface, casing deformation measurements along the wellbore, or equivalent technology should be utilized.

H. Plugging and Abandonment of Wells

a) All wells heretofore and hereafter drilled within the Potash Area shall be plugged in a manner and in accordance with the general rules or field rules established by the Division that will provide a solid cement plug through the salt section and any water-bearing horizon and prevent liquids or gases from entering the hole above or below the salt section.

b) The fluid used to mix the cement shall contain the salt as outlined in *sub-section D 3) (e).*

I. **Designation of Drillable Location for Wells**

a) Within ninety (90) days following effective date of this Order and annually thereafter by January 31 if revised, each potash lessee, without regard to whether the lease covers State or Federal lands, shall file with the District Manager, BLM, and the State Land Office (SLO) a designation of the potash deposits considered by the potash lessee to be its life-of-mine reserves ("LMR"). For purposes of this Agreement, “life-of-mine reserves” means those potash deposits within the Potash Area reasonably believed by the potash lessee to contain potash ore in sufficient thickness and grade to be mineable using current day mining methods, equipment and technology. Information used by the potash lessee iny identifying its LMR shall be filed with the BLM and SLO but will be considered privileged and confidential "trade secrets and commercial information" within the meaning of 43 C.F.R.§2.13(c} (4) (1986), Section 19-1-2.1 NMSA 1978, and not subject to public disclosure.

b) Authorized officers of the BLM and SLO shall review the information submitted by each potash lessee in support of its LMR designation on their respective lands and verify upon request, that the data used by the potash lessee in establishing the boundaries of its LMR is consistent with data available to the BLM and SLO. Any disputes between the BLM and potash lessee concerning the boundary of a designated LMR shall be resolved in accordance with the Department of Interior's Hearings and Appeals Procedures, 43 C.F.R. Part 4 (1986).

c) A potash lessee may amend its designated LMR by filing a revised designation with the BLM and SLO accompanied by the information referred to in Section A above. Such

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amendments must be filed by January 31 next following the date the additional data becomes available.

d) Authorized officers of the BLM and SLO shall commit the designated LMR of each potash lessee to a map(s) of suitable scale and thereafter revise the map(s) as necessary to reflect the latest amendments to any designated LMRs. These maps shall be considered privileged and confidential and exempt from disclosure under 43 C.F.R. Part 2 and §19-1-2.1 NMSA 1978, and will be used only for the purposes set forth in this Order.

e) The foregoing procedure can be modified by policy changes within the BLM and State Land Office.

f) Before commencing drilling operations for oil or gas on any lands within the Potash Area, the well operator shall prepare a map or plat showing the location of the proposed well. Said map or plat to accompany each copy of the Notice of Intention to Drill. In addition to the number of copies required by the Division, the well operator shall send one copy by registered mail to each potash operator holding potash leases within a radius of one mile of the proposed well, as reflected by the plats submitted under paragraph I (2). The well operator shall furnish proof of the fact that said potash operators were notified by registered mail of his intent by attaching return receipt to the copies of the Notice of Intention to Drill and plats furnished the Division.

g) Drilling applications on federal lands will be processed for approval by BLM. Applications on state or patented lands will be processed by the Division and, in the case of state lands, in collaboration with the SLO. The Division will notify the BLM of all submitted drilling permits for wells in the KPLA so that development can be coordinated under the Drilling Island and Development Area concepts established under federal Secretarial Order #3324. The Division will first ascertain from the BLM or SLO that the location is not within the LMR area. Active mine workings and mined-out areas shall also be treated as LMR. Any application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of lessor and lessees of both potash and oil and gas interests. Applications to drill outside the LMR will be approved as indicated below; provided there is no protest from potash lessee within 20 days of his receipt of a copy of the notice:

i. No well, deep or shallow, shall be drilled closer to the LMR than one-fourth (1/4) mile provided that well construction operations are in compliance with the safeguards and practices described herein.

J. **Inspection of Drilling and Mining Operations**

a) A representative of any potash lessee within a radius of one mile from the well location may be present during drilling, cementing, casing, and plugging of any oil and gas wells to observe conformance with these regulations. Likewise, a representative of the oil and

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gas lessee may inspect mine workings on his lease to observed conformance with these regulations.

K. **Filing of Well Surveys, Mine Surveys, and Potash Development Plans**

b) Directional Surveys - The Division may require an operator to file a certified directional survey from the surface to a point below the lowest known potash-bearing horizon on any well drilled within the Potash Area.

c) Mine Surveys - Within 30 days after the adoption of this order and thereafter on or before January 31st of each year, each potash operator shall furnish the Division two copies of a plat of a survey of the location of his lease holdings and all of his open mine workings which plat shall be available for public inspection and on a scale acceptable to the Division.

L. **Applicability of Statewide Rules and Regulations**

All general statewide rules and regulations of the Oil Conservation Division governing the development, operation, and production of oil and gas in the State of New Mexico not inconsistent or in conflict herewith, are hereby adopted and made applicable to the areas described herein.

IT IS FURTHER ORDERED THAT:

1) R-111 and amendments through R-111-P are hereby rescinded.

2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

Done at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISION

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Appendix A:

Exhibit A] Wellbore Diagrams

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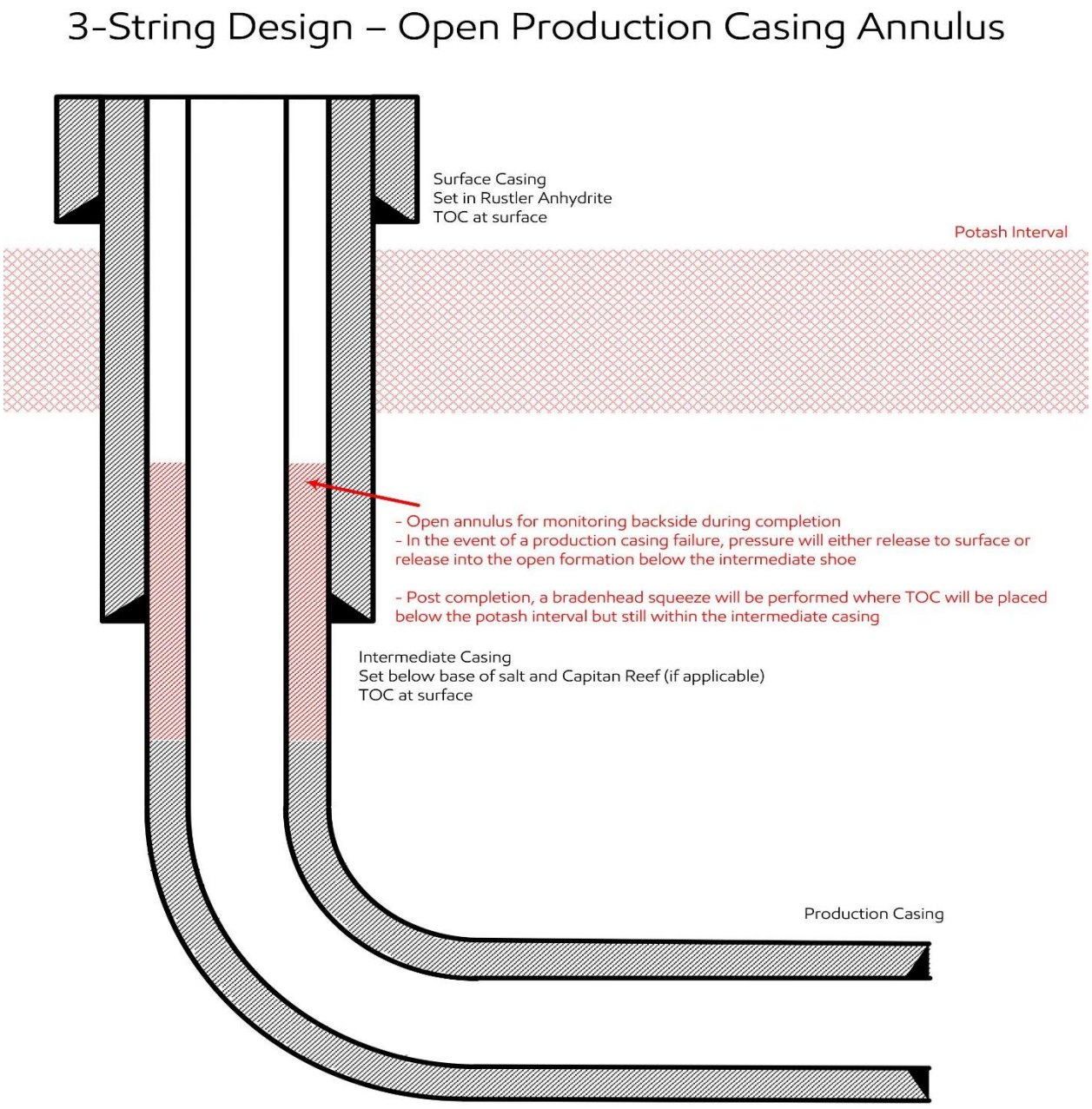

Figure A] 3 – String – Un Cemented Annulus

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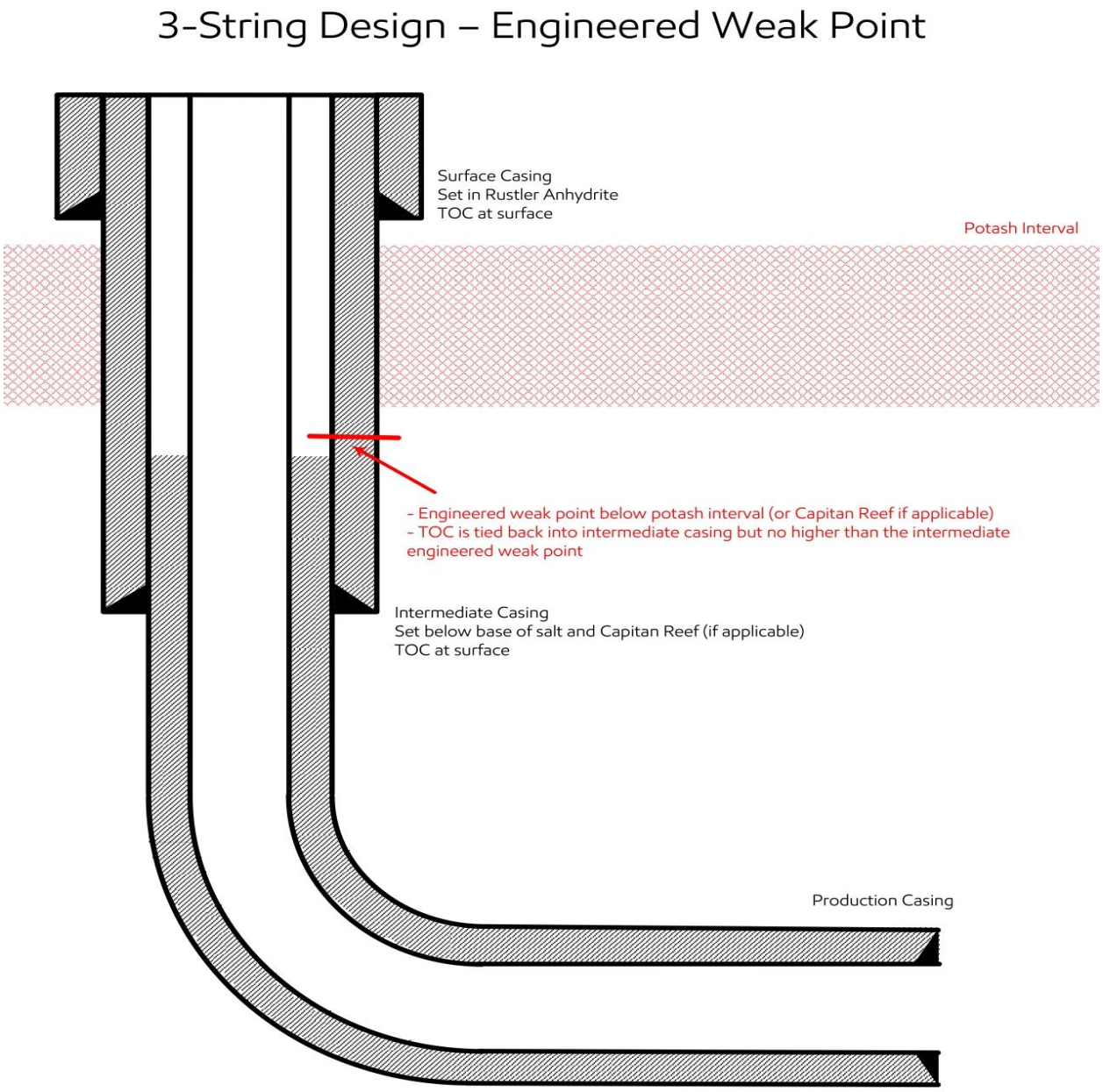

Figure B] 3 – String – Engineered weak point

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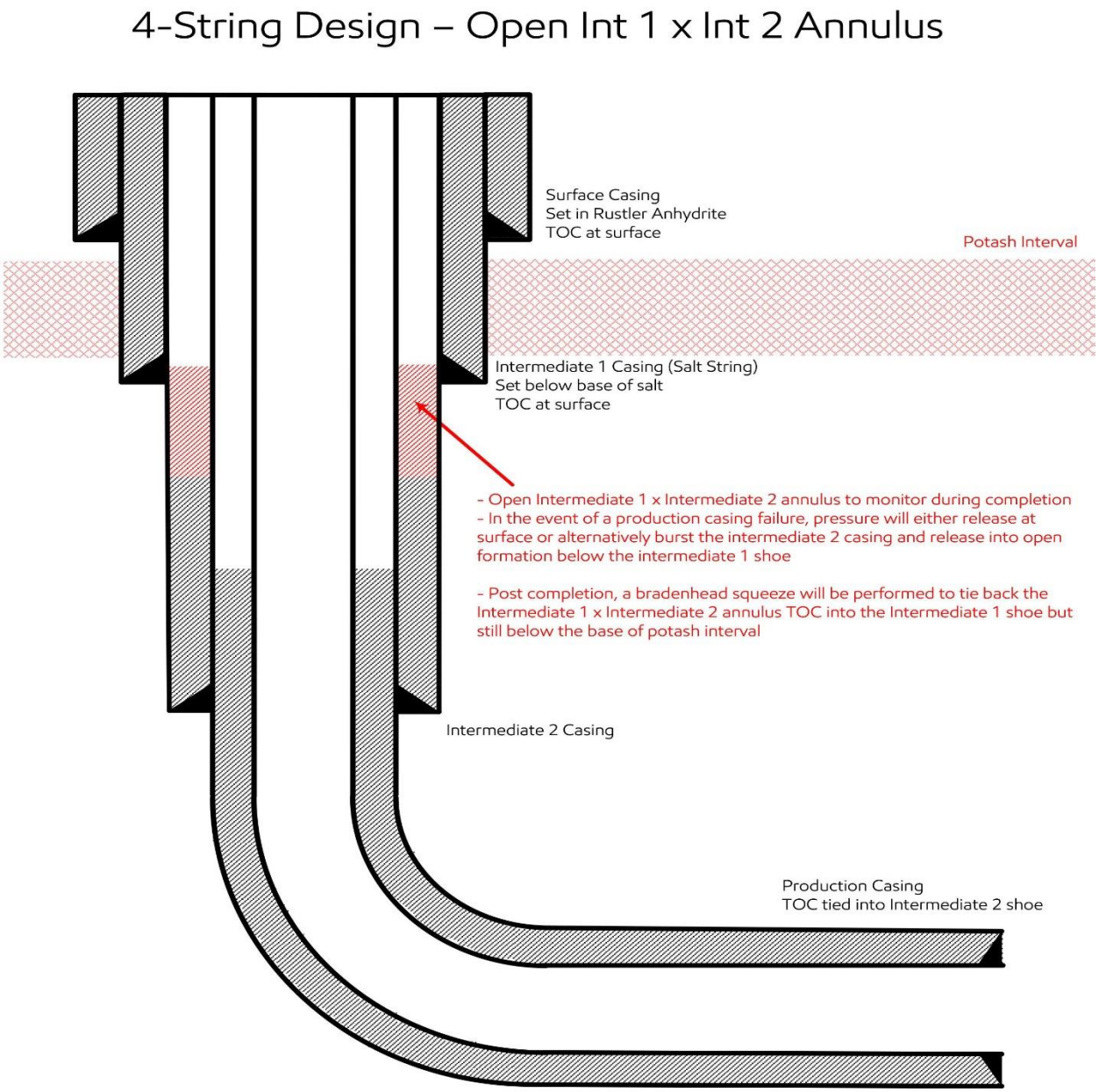

Figure C] 4 – String – Un Cemented Annulus

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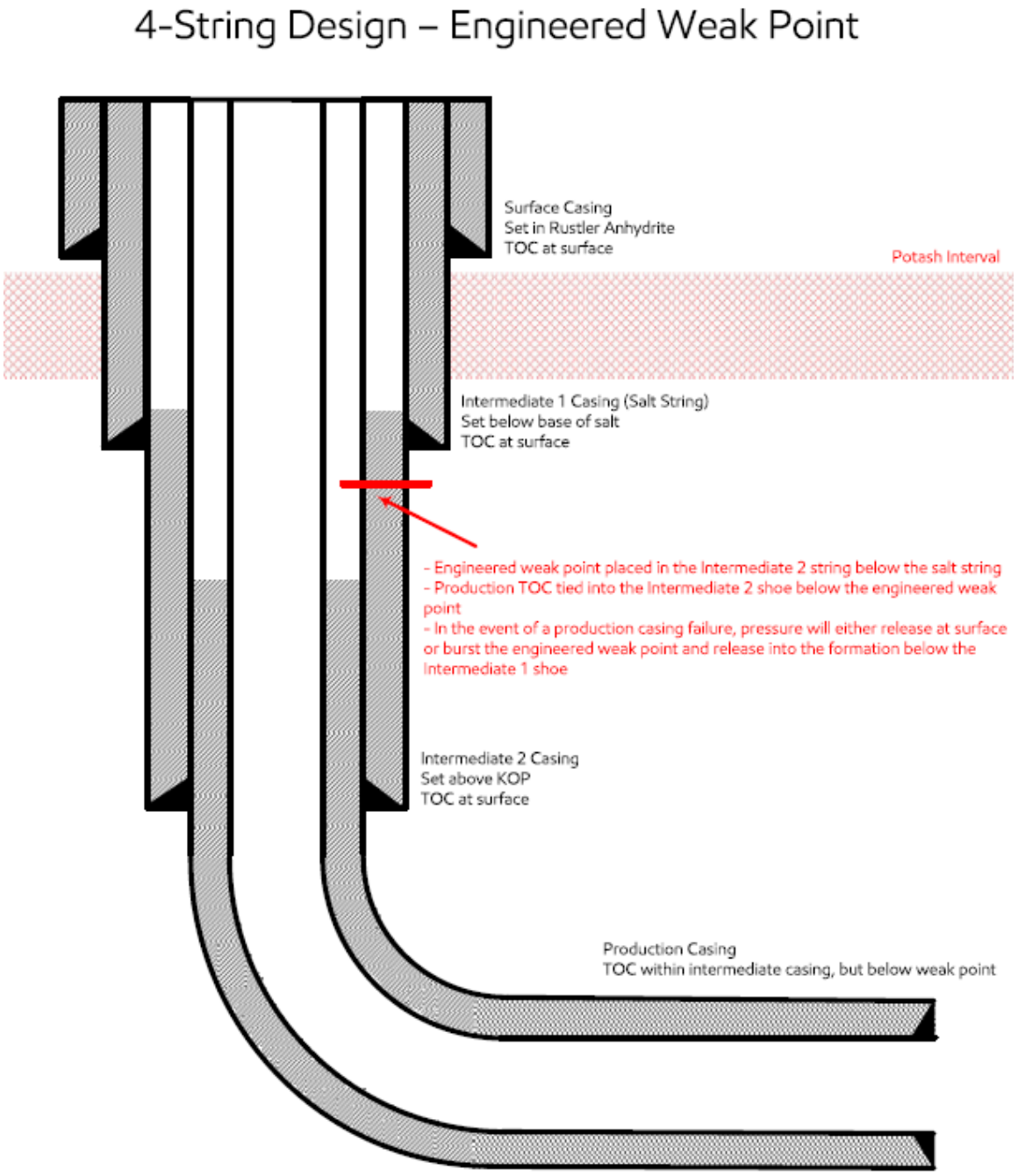

Figure D] 4 – String – Engineered weak point

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Exhibit B] Potash/Reef Geographical Boundary

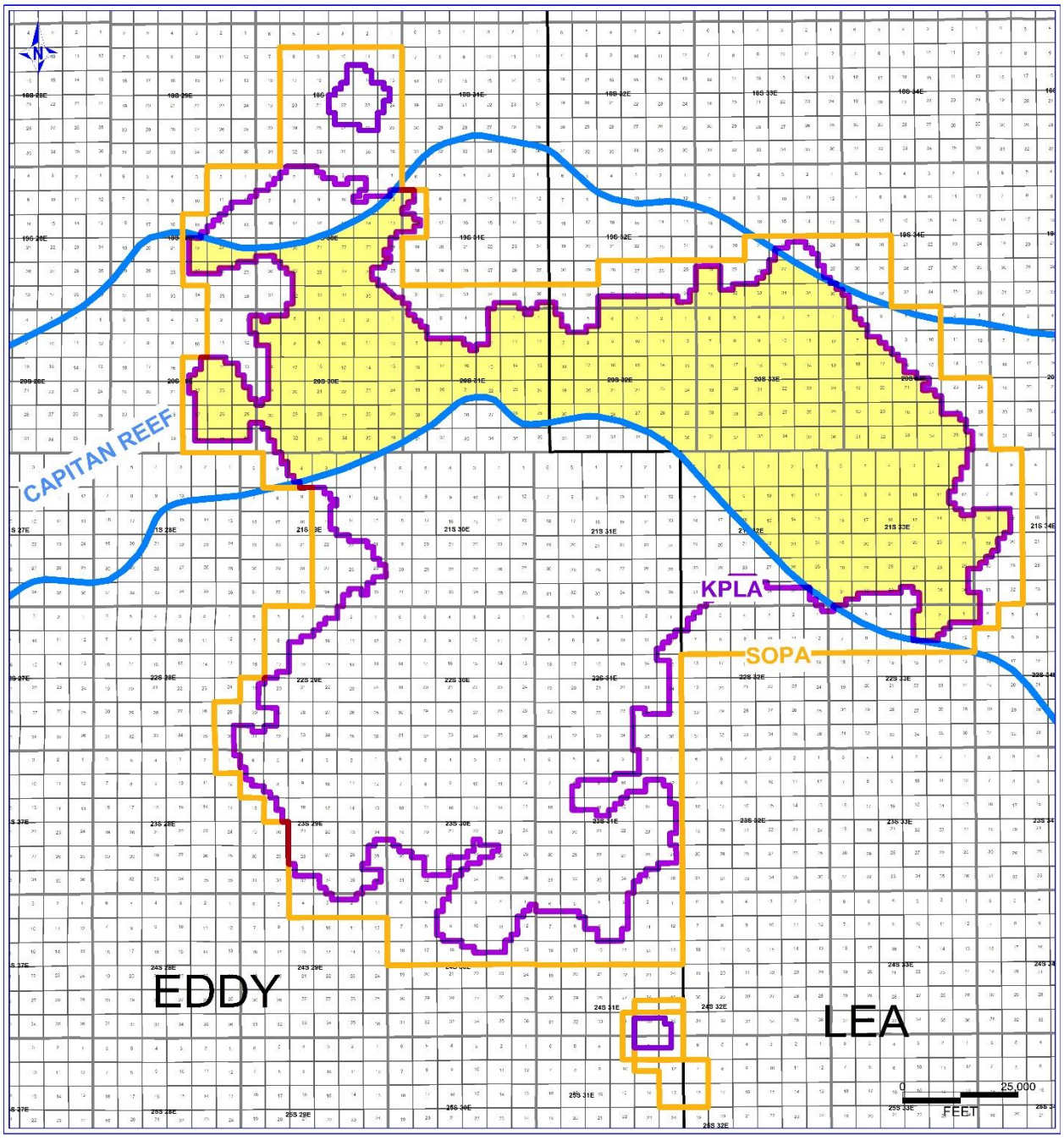

Figure E] Potash/Reef Geographical Boundary where Salt/Reef may be combined

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Exhibit C] R-111 P KPLA Boundary

CONSOLIDATED LAND DESCRIPTION OF THE KNOWN POTASH LEASING AREA, AS OF FEBRUARY 3, 1988

EDDY COUNTY, NEW MEXICO

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM

Section 10: SE/4 SE/4
Section 11: S/2 SW/4
Section 13: W/2 SW/4 and SE/4 SW/4
Section 14: W/2 NE/4, NW/4 and S/2
Section 15: E/2 NE/4, SE/4 SW/4 and SE/4
Section 22: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 23: All
Section 24: N/2 NW/4, SW/4 NW/4 and NW/4 SW/4
Section 26: NE/4, N/2 NW/4 and SE/4 NW/4
Section 27: N/2 NE/4 and NE/4 NW/4

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM

Section 11: SE/4 SE/4
Section 12: SE/4 NE/4 and S/2
Section 13: All
Section 14: NE/4, SE/4 NW/4 and S/2
Section 15: SE/4 SE/4
Section 22: NE/4, E/2 W/2 and SE/4
Section 23: All
Section 24: All
Section 25: NW/4 NW/4
Section 26: N/2 NE/4 and NW/4
Section 27: NE/4 and E/2 NW/4

TOWNSHIP 19 SOUTH RANGE 30 EAST, NMPM

Section 2: SW/4
Section 3: W/2 SW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 4: Lots 3 and 4. SW/4 NE/4, S/2 NW/4 and S/2
Section 5: Lots 1, 2. and 3, S/2 NE/4. S/2 NW/4 and S/2
Section 6: S/2 SE/4 and NE/4 SE/4
Sections 7 to 10 inclusive
Section 11: S/2 NE/4, NW/4 NW/4 and S/2
Section 12: NE/4, S/2 NW/4 and S/2
Section 13: NE/4, W/2, N/2 SE/4 and SW/4 SE/4
Sections 14 to 18 inclusive
Section 19: Lots 1, 2, and 3, NE/4, E/2 NW/4, NE/4 SW/4, E/2 SE/4 and NW/4 SE/4
Sections 20 to 23 inclusive
Section 24: NW/4. NW/4 SW/4 and S/2 SW/4

AMERICAN OVERSIGHT

Exhibit C- Continued

Section 25: NW/4 NW/4
Section 26: NE/4 NE/4, W/2 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 27: All
Section 28: All
Section 29: E/2, E/2 NW/4 and NW/4 NW/4
Section 32: E/2 and SE/4 SW/4
Section 33 to 35 inclusive
Section 36: NW/4 NW/4, S/2 NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 31 EAST. NMPM
Section 7: Lots 1, 2, and 3 and E/2 NW/4
Section 18: Lots 1, 2, and 3 and SW/4 NE/4, E/2 NW/4 and NE/4 SW/4
Section 31: Lot 4
Section 34: SE/4 SE/4
Section 35: S/2 SW/4 and SW/4 SE/4
Section 36: S/2 SE/4

LEA COUNTY. NEW MEXICO

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 31: Lot 4
Section 33: Lots 1 to 4 inclusive and N/2 S/2
Section 34: Lots 1 to 4 inclusive and N/2 S/2
Section 35: Lots 1 to 4 inclusive and N/2 S/2
Section 36: Lots 1 to 4 inclusive, SE/4 NE/4, NW/4 SW/4 and NE/4 SE/4

TOWNSHIP 19 SOUTH, RANGE 33 EAST, NMPM
Section 22: SE/4 NE/4, E/2 SW/4 and SE/4
Section 23: S/2 NW/4, SW/4. W/2 SE/4 and SE/4 SE/4
Section 25: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 26: All
Section 27: All
Section 28: S/2 SE/4 and NE/4 SE/4
Section 30: Lots 2 to 4 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 31: All
Section 32: NE/4, S/2 NW/4 and S/2
Sections 33 to 35 inclusive
Section 36: W/2 NE/4, SE/4 NE/4, NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 34 EAST, NMPM
Section 31: Lots 3 and 4

AMERICAN OVERSIGHT

Exhibit C- Continued

EDDY COUNTY. NEW MEXICO

TOWNSHIP 20 SOUTH, RANGE 29 EAST, NMPM

Section 1: SE/4 NE/4 and E/2 SE/4
Section 13: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 14: NW/4 NE/4, S/2 NE/4, NW/4 and S/2
Section 15: E/2 E/2, SE/4 SW/4 and W/2 SE/4
Section 22: E/2 and E/2 NW/4
Section 23: All
Section 24: SW/4 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 25: N/2, SW/4, W/2 SE/4 and NE/4 SE/4
Section 26: All
Section 27: E/2
Section 34: NE/4
Section 35: N/2
Section 36: W/2 NE/4 and NW/4

TOWNSHIP 20 SOUTH, RANGE 30 EAST, NMPM

Sections 1 to 4 inclusive
Section 5: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 6 Lots 5, 6, and 7, S/2 NE/4, E/2 SW/4 and SE/4
Section 7 Lots 1 and 2. E/2 and E/2 NW/4
Sections 8 to 17 inclusive
Section 18 E/2
Section 19 E/2 and SE/4 SW/4
Sections 20 to 29 inclusive
Section 30: Lots 1 to 3 inclusive, E/2 and E/2 W/2
Section 31: NE/4 and E/2 SE/4
Sections 32 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 31 EAST. NMPM

Section 1: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 2: All
Section 3: Lots 1 and 2, S/2 NE/4 and SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: S/2 N/2 and S/2
Section 9: S/2 NW/4, SW/4, W/2 SE/4 and SE/4 SE/4
Section 10: E/2 and SW/4
Sections 11 to 36 inclusive

AMERICAN OVERSIGHT

Exhibit C- Continued

LEA COUNTY, NEW MEXICO

TOWNSHIP 20 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 4 inclusive
Section 5: S/2 SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4 and SW/4 SE/4
Sections 7 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 33 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 3 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: SW/4, S/2 NW/4, W/2 SE/4 and SE/4 SE/4
Section 16: W/2 NW/4, SE/4 NW/4, SW/4 and S/2 SE/4
Sections 17 to 21 inclusive
Section 22: N/2 NW/4, SW/4 NW/4, SW/4, W/2 SE/4, and SE/4 SE/4
Section 26: SW/4, W/2 SE/4 and SE/4 SE/4
Sections 27 to 35 inclusive
Section 36: SW/4 NW/4 and W/2 SW/4

EDDY COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 3 inclusive
Section 4: Lots 1 through 16, NE/4 SW/4 and SE/4
Section 5: Lot 1
Section 10: N/2 NE/4, SE/4 NE/4 and SE/4 SE/4
Sections 11 to 14 inclusive
Section 15: E/2 NE/4 and NE/4 SE/4
Section 23: N/2 NE/4
Section 24: E/2, N/2 NW/4 and SE/4 NW/4
Section 25: NE/4 NE/4 and S/2 SE/4
Section 35: Lots 2 to 4 inclusive, S/2 NE/4, NE/4 SW/4 and N/2 SE/4
Section 36: Lots 1 to 4 inclusive, NE/4, E/2 NW/4 and N/2 S/2

TOWNSHIP 21 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

AMERICAN OVERSIGHT

Exhibit C- Continued

TOWNSHIP 21 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 36 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 27 inclusive
Section 28: N/2 and N/2 S/2
Sections 29 to 31 inclusive
Section 32: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 34: N/2 NE/4
Section 35: N/2 N/2
Section 36: E/2. N/2 NW/4, SE/4 NW/4 and NE/4 SW/4

TOWNSHIP 21 SOUTH, RANGE 33 EAST, NMPM
Section 1: Lots 2 to 7 inclusive, Lots 10 to 14 inclusive. N/2 SW/4 and SW/4 SW/4
Sections 2 to 11 inclusive
Section 12: NW/4 NW/4 and SW/4 SW/4
Section 13: N/2 NW/4, S/2 N/2 and S/2
Sections 14 to 24 inclusive
Section 25: N/2. SW/4 and W/2 SE/4
Sections 26 to 30 inclusive
Section 31: Lots 1 to 4 inclusive, NE/4, E/2 W/2, N/2 SE/4 and SW/4 SE/4
Section 32: N/2 and NW/4 SW/4
Section 33: N/2
Section 34: NE/4, N/2 NW/4 and E/2 SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and S/2

TOWNSHIP 21 SOUTH, RANGE 34 EAST, NMPM
Section 17: W/2
Section 18: All
Section 19: Lots 1 to 4 inclusive, NE/4, E/2 W/2. N/2 SE/4 and SW/4 SE/4
Section 20: NW/4 NW/4
Section 30: Lots 1 and 2 and NE/4 NW/4
Section 31: Lots 3 and 4

EDDY COUNTY. NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 28 EAST, NMPM
Section 36: E/2 E/2

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Exhibit C- Continued

TOWNSHIP 22 SOUTH, RANGE 29 EAST, NMPM
Sections 1 and 2 inclusive
Section 3 SE/4 SW/4 and SE/4
Section 9 S/2 NE/4 and S/2
Sections 10 to 16 inclusive
Section 17 S/2 SE/4
Section 19 SE/4 NE/4 and E/2 SE/4
Sections 20 to 28 inclusive
Section 29 N/2 N/2, S/2 NE/4 and SE/4
Section 30 NE/4 NE/4
Section 31 Lots 1 to 4 inclusive, S/2 NE/4, E/2 W/2 and SE/4
Sections 32 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 11 inclusive
Section 12: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 13: S/2 NW/4 and SW/4
Sections 14 to 23 inclusive
Section 24: W/2
Section 25: NW/4
Section 26: NE/4 and N/2 NW/4
Sections 27 to 34 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 32 EAST, NMPM
Section 1: Lot 1
Section 6: Lots 2 to 7 inclusive and SE/4 NW/4

TOWNSHIP 22 SOUTH, RANGE 33 EAST, NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 2: All
Section 3: Lot 1, SE/4 NE/4 and SE/4
Section 6: Lot 4
Section 10: NE/4
Section 11: NW/4 NE/4 and NW/4

TOWNSHIP 22 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 4 to 6 inclusive

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Exhibit C- Continued

EDDY COUNTY, NEW MEXICO

TOWNSHIP 23 SOUTH, RANGE 28 EAST, NMPM
Section 1: Lot 1

TOWNSHIP 23 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 5 inclusive
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 7: NE/4 and NE/4 NW/4
Section 8: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Sections 9 to 16 inclusive
Section 17: NE/4 and E/2 SE/4
Sections 21 to 23 inclusive
Section 24: N/2, SW/4 and N/2 SE/4
Section 25: W/2 NW/4 and NW/4 SW/4
Section 26: All
Section 27: All
Section 28: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 33: N/2 NE/4 and NE/4 NW/4
Section 34: NE/4, E/2 NW/4, NW/4 NW/4, NE/4 SW/4 and SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and N/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 18 inclusive
Section 19 N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 20 All
Section 21 All
Section 22 N/2, S/2 SW/4, N/2 S/2 and SE/4 SE/4
Sections 23 to 25 inclusive
Section 26 E/2, SE/4 NW/4 and SW/4
Section 27 N/2 NW/4, SW/4 NW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 28 N/2 and SW/4
Section 29 N/2 and SE/4
Section 30 N/2 NE/4
Section 32 N/2 NE/4
Section 33 SE/4 NE/4, N/2 NW/4, NE/4 SE/4 and S/2 SE/4
Sections 34 to 36 inclusive

TOWNSHIP 23 SOUTH, RANGE 31 EAST, NMPM
Section 2: Lot 4, SW/4 NW/4 and W/2 SE/4
Sections 3 to 7 inclusive
Section 8: NE/4 NE/4, W/2 NE/4 and W/2
Section 9: N/2 N/2
Section 10: NW/4 NW/4 and SE/4 SE/4
Section 11: S/2 NE/4, S/2 SW/4 and SE/4

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Exhibit C- Continued

Section 12: SW/4 NW/4 and SW/4
Section 13: SW/4 NE/4, W/2 and W/2 SE/4
Section 14: All
Section 15: E/2, SE/4 NW/4 and SW/4
Section 16: SW/4 and S/2 SE/4
Section 17: NW/4 and S/2
Sections 18 to 23 inclusive
Section 24: W/2 NE/4 and W/2
Section 25: W/2 NE/4, NW/4, N/2 SW/4 and NW/4 SE/4
Sections 26 to 34 inclusive
Section 35: N/2 NW/4 and SW/4 NW/4

TOWNSHIP 24 SOUTH, RANGE 29 EAST, NMPM
Section 2: Lots 2 to 4 inclusive
Section 3: Lot 1

TOWNSHIP 24 SOUTH, RANGE 30 EAST, NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2, SW/4 and NW/4 SE/4
Section 2: All
Section 3: All
Section 4: Lots 1 and 2, S/2 NE/4, SE/4 NW/4, SW/4 SW/4. E/2 SW/4 and SE/4
Section 9: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 10: All
Section 11: All
Section 12: W/2 NW/4 and NW/4 SW/4
Section 14: W/2 NE/4 and NW/4
Section 15: NE/4 and N/2 NW/4

TOWNSHIP 24 SOUTH, RANGE 31 EAST, NMPM
Section 3: Lots 2 to 4 inclusive, SW/4 NE/4, S/2 NW/4, SW/4 and W/2 SE/4
Section 4: All
Section 5: Lots 1 to 4 inclusive, S/2 N/2, N/2 S/2 and SE/4 SE/4
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, NE/4 SW/4 and N/2 SE/4
Section 9: E/2 and NW/4
Section 10: W/2 NE/4 and W/2
Section 35: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 36: Lots 1 and 2, SW/4 NW/4 and N/2 SW/4

TOWNSHIP 25 SOUTH, RANGE 31 EAST, NMPM
Section 1: Lots 3 and 4 and S/2 NW/4
Section 2: Lots 1 to 4 inclusive and S/2 N/2

AMERICAN OVERSIGHT

From: Stuart Wittenbach <Stuart.Wittenbach@coterra.com>
Sent: Tuesday, February 22, 2022 10:28 AM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Stephen Flaherty <sflaherty@cimarex.com>; Martin, James <jmartin@bwenergylaw.com>
Subject: [EXTERNAL] Amoco Federal Lease - Project/Summary Report
Attachment(s): "2572_001.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne

We hope you are staying warm and safe with this recent winter storm. We are going to be frigid cold, with snow/sleet, the next 3 days in Tulsa.

Attached is the summary report for the Amoco Federal Lease project located in Eddy County, New Mexico. We have sent the original copy via overnight mail to your office.

We are looking forward to visiting with you next month regarding this project.

Thanks for your time and support!

COTERRA

Stuart Wittenbach | Director of ESH
T: 918-560- **7257** | M: 918-404-1084 | swittenbach@cimarex.com | www.coterra.com
Coterra Energy Inc. | 202 S. Cheyenne Ave., Suite 1000 | Tulsa, OK 74103

Coterra Energy Inc. is the result of the merger of Cimarex Energy Co. and Cabot Oil & Gas Corporation on October 1, 2021.

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Cimarex Energy Co.
202 S. Cheyenne Ave.
Suite 1000
Tulsa, Oklahoma 74103-4346
PHONE 918.560.7257
FAX 918.560.7184

Stuart Wittenbach
Director—Environmental Safety & Health

February 22, 2022

Ms. Adrienne Sandoval
NM Oil Conservation Division
1220 South St. Francis
Santa Fe, New Mexico 87505

Re: Amoco Federal Project
Eddy County, New Mexico

Dear Director Sandoval:

As you requested, we are pleased to provide you with a summary of Cimarex's work at the Amoco Federal project in southwestern New Mexico.

Cimarex Energy Co. is in the final stages of the remediation/reclamation phase of the Amoco Federal Lease that is located in Eddy County, New Mexico. Listed below are highlights of this project:

- The first well was drilled in 1983 and a total of 14 wells were drilled and completed. Refer to the attached map.
- Cimarex was the 4th owner of this lease (purchased from Gruy Petroleum in 2006)
- Began P&A work in 2012 and investigation of well sites and facility locations.
- Completed the P&A and reclamation on all well sites and tank battery location.
- The former Produced Water transfer facility required additional research and delineation.
- Status of the former Produced Water transfer facility:
    - Drilled 6 monitoring wells
    - Completed soil sampling and analysis
    - Completed a detailed EMC survey of the site
    - Completed a hydrology study
    - Removed approximately 2100 cubic yards
    - Installed a 40 ml. poly liner (4 to 5 ft. below grade)
- All work was completed with the approval and/or feedback from the NM-OCD and BLM.

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Cimarex has developed a proposed final closure plan for this site. That plan will be the subject of our March 16, 2022 meeting.

We appreciate your time and support of this reclamation project and look forward to meeting with you to discuss our proposed pathway forward.

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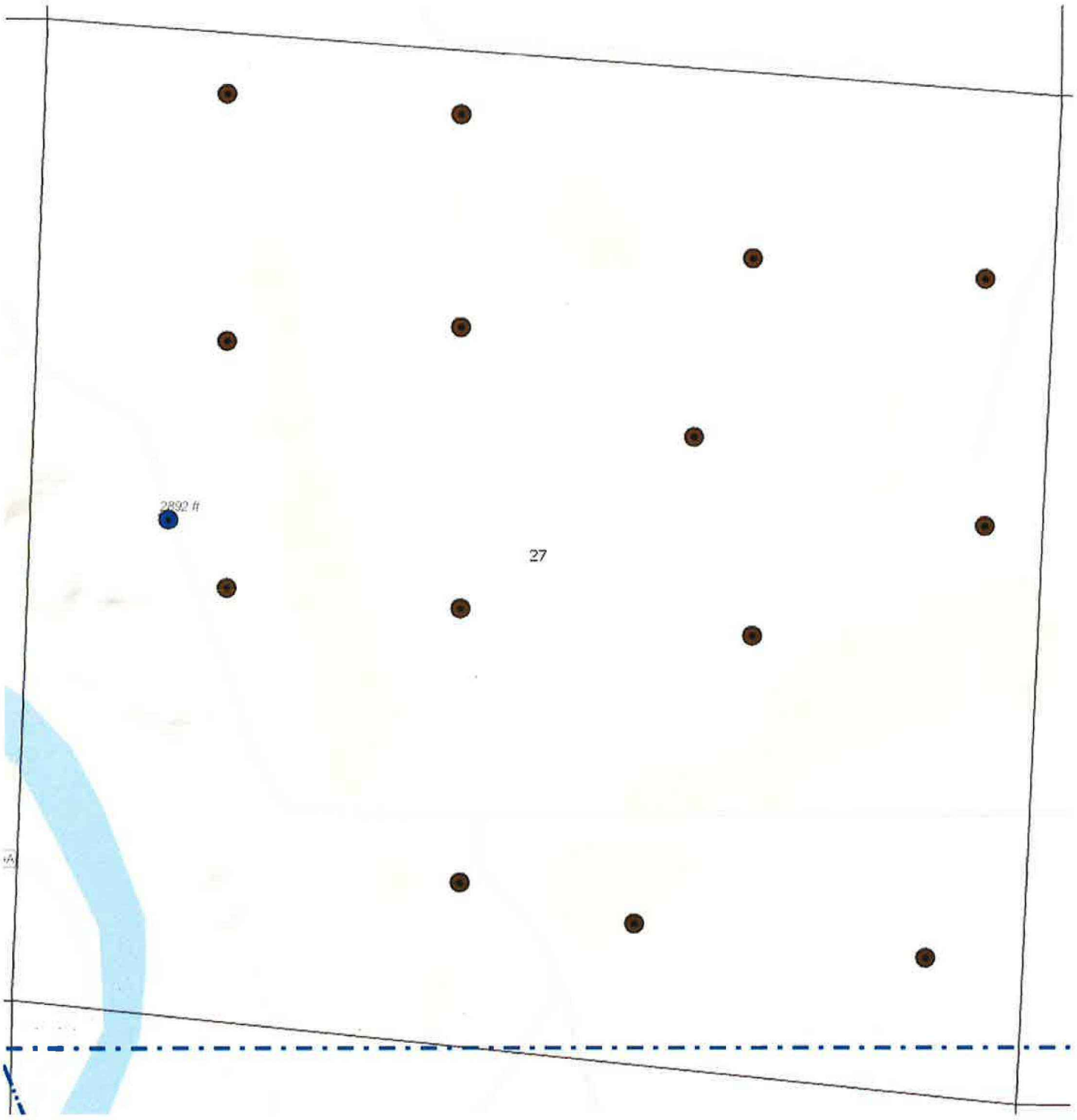

AMOCO FEDERAL LEASE

SOC 27-T265-R29E

Eddy County, New Mexico

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Archuleta, Deanna A's Zoom Meeting
Location: https://exxonmobil.zoom.us/j/98021948324?pwd=OUgybms0OUR0d3J5L01saXlhUUVLZz09

Start: Friday, April 22, 2022 10:30 AM EDT
End: Friday, April 22, 2022 11:00 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Archuleta, Deanna A
Required Attendees: Archuleta, Deanna A <deanna.archuleta@exxonmobil.com>; Greaves, David <david.greaves@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

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Zoom Meeting Invite

Join Meeting

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Meeting ID: 980 2194 8324 (Password: 153310)

Phone One Tap: +13462487799,,98021948324# US (Houston) +12532158782,,98021948324# US (Tacoma)

Join by Telephone

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Find your local number:
https://exxonmobil.zoom.us/u/aTGcVs74

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115.114.115.7 (India Hyderabad)
213.19.144.110 (Amsterdam Netherlands)
213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
98021948324@162.255.36.11 (US East)

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Password: 153310

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From: Greaves, David <david.greaves@exxonmobil.com>
Sent: Tuesday, May 17, 2022 6:05 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] C129 update

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Adrienne – Per our visit last week, I wanted to let you know we are now ready to start submitting the C-129s that we missed from over the last year. We have completed our gap assessment and compilation of data, and we expect ~1100 C-129 filings will be needed. We have aligned additional support within our company to assist with making the filings as there does not appear to be an option to mass upload submissions (we did check with your team). We expect it will take ~5 weeks to get these all completed and uploaded.

Should start seeing these submissions within the next day assuming all goes well. Please let me know if you require additional information.

Regards,

David Greaves
SHE, Regulatory & Production Accounting Manager - Permian
XTO Energy, a subsidiary of ExxonMobil
david.greaves@exxonmobil.com
Cell: 281-636-9970
Phone: 432-221-7334

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, January 25, 2022 1:13 PM EST
To: Brian.Lacey@conservation.ca.gov <Brian.Lacey@conservation.ca.gov>; Cwvanderbusch@nd.gov <Cwvanderbusch@nd.gov>; Denetta.Brannon@occ.ok.gov <Denetta.Brannon@occ.ok.gov>; Dianne Jones <dianne.jones@iogcc.state.ok.us>; Frankthorwald@thorwaldgroup.com <Frankthorwald@thorwaldgroup.com>; Lucy.Blocker@state.sd.us <Lucy.Blocker@state.sd.us>; Mark.Merritt@illinois.gov <Mark.Merritt@illinois.gov>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Theresa.Valenzuela@rrc.texas.gov <Theresa.Valenzuela@rrc.texas.gov>; abdel.zellou@conservation.ca.gov <abdel.zellou@conservation.ca.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; adtabor@nd.gov <adtabor@nd.gov>; amber.steele@dnr.mo.gov <amber.steele@dnr.mo.gov>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; azogcc@azdeq.gov <azogcc@azdeq.gov>; bartkettle@utah.gov <bartkettle@utah.gov>; Brown, Benjamin@DOC <Benjamin.Brown@conservation.ca.gov>; bgregory@ogb.state.al.us <bgregory@ogb.state.al.us>; Bruce Hicks <bhicks@nd.gov>; Bob Brinkmann <bob.brinkmann@oregon.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>; broyer@dnr.in.gov <broyer@dnr.in.gov>; bryan.mclellan@alaska.gov <bryan.mclellan@alaska.gov>; catherine.dickert@dec.ny.gov <catherine.dickert@dec.ny.gov>; cindy.mulkey@dep.state.fl.us <cindy.mulkey@dep.state.fl.us>; clay.woodul@rrc.texas.gov <clay.woodul@rrc.texas.gov>; colleen.forrest@rrc.texas.gov <colleen.forrest@rrc.texas.gov>; courtney.kasberg@conservation.ca.gov <courtney.kasberg@conservation.ca.gov>; david.andrews@state.co.us <david.andrews@state.co.us>; david.hardie@aer.ca <david.hardie@aer.ca>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; donnarschmidt@nd.gov <donnarschmidt@nd.gov>; erika.giorgi@conservation.ca.gov <erika.giorgi@conservation.ca.gov>; ftankthorwald@thorwaldgroup.com <ftankthorwald@thorwaldgroup.com>; gina.cavender@ky.gov <gina.cavender@ky.gov>; gordonr.slone@ky.gov <gordonr.slone@ky.gov>; graham.stmichel@conservation.ca.gov <graham.stmichel@conservation.ca.gov>; gregory.scott@dec.ny.gov <gregory.scott@dec.ny.gov>; gregory_nottingham@ios.doi.gov <gregory_nottingham@ios.doi.gov>; Henderson, Rick (EGLE) <hendersonr2@michigan.gov>; hernando.albarracin@illinois.gov <hernando.albarracin@illinois.gov>; jarrett.ellis@state.co.us <jarrett.ellis@state.co.us>; jeremy.price@alaska.gov <jeremy.price@alaska.gov>; jesse.herrera@rrc.texas.gov <jesse.herrera@rrc.texas.gov>; jessie.chmielowski@alaska.gov <jessie.chmielowski@alaska.gov>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; kahaarsager@nd.gov <kahaarsager@nd.gov>; katie.crocker@ky.gov <katie.crocker@ky.gov>; kevin.keane@dec.ny.gov <kevin.keane@dec.ny.gov>; kmcquillan@ogb.state.al.us <kmcquillan@ogb.state.al.us>; lhelms@nd.gov <lhelms@nd.gov>; marvin.combs@ky.gov <marvin.combs@ky.gov>; mbohrer@nd.gov <mbohrer@nd.gov>; mdziesch@nd.gov <mdziesch@nd.gov>; melissa.glau@conservation.ca.gov <melissa.glau@conservation.ca.gov>; mike.mcginnis@occ.ok.gov <mike.mcginnis@occ.ok.gov>; natashaballif@utah.gov <natashaballif@utah.gov>; patrick.shelton@rrc.texas.gov <patrick.shelton@rrc.texas.gov>; rdloumer@nd.gov <rdloumer@nd.gov>; reneea.lofton@dogami.oregon.gov <reneea.lofton@dogami.oregon.gov>; rex.robertson@aogc.state.ar.us <rex.robertson@aogc.state.ar.us>; rivesta@michigan.gov <rivesta@michigan.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; roxanne.reiley@tn.gov <roxanne.reiley@tn.gov>; rretherford@dnr.in.gov <rretherford@dnr.in.gov>; sbelieu@nogcc.ne.gov <sbelieu@nogcc.ne.gov>; Mark J. Snow <snowm@michigan.gov>; Suzannah Hafford <Suzannah.Hafford@occ.ok.gov>; t75murph@blm.gov <t75murph@blm.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; wendy.johnson@conservation.ca.gov <wendy.johnson@conservation.ca.gov>; Lodder, William B <William_Lodder@ios.doi.gov>; zachary.maskin@dec.ny.gov <zachary.maskin@dec.ny.gov>; zee.sr.priest@dogami.oregon.gov <zee.sr.priest@dogami.oregon.gov>
CC: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Dianne Jones <dianne.jones@iogcc.state.ok.us>
Subject: [EXTERNAL] CANCELED - IOGCC Council of Regulatory Officials Special Meeting - Case Studies /RoundTable for Contracting Practices for the Regulatory Community

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

Due to illness, we have decided to reschedule tomorrow's roundtable. We know that this is important information to share with the states so we would like to reschedule for some time during the first half of February.

We are so sorry for any inconvenience, and we will send out the new date and time ASAP.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
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Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, January 25, 2022 1:13 PM EST
To: Adam Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; casey.hanell@dnr.wa.gov <casey.hanell@dnr.wa.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; danny.sorrells@rrc.texas.gov <danny.sorrells@rrc.texas.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Ines Piccinino <ines.piccinino@bcogc.ca>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Jeremy Price <Jeremy.price@alaska.gov>; Jess New <jnew@ogb.state.ms.us>; james.chapman@ncdenr.gov <james.chapman@ncdenr.gov>; Jim Halvorson <jhalvorson@mt.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; John Baza <johnbaza@utah.gov>; john.coates@floridadep.gov <john.coates@floridadep.gov>; Julie M. Murphy <julie.murphy@state.co.us>; kim.doane@novascotia.ca <kim.doane@novascotia.ca>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lucy Blocker <lucy.blocker@state.sd.us>; Lynn Helms <lhelms@nd.gov>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Martin Foy <martin.foy@aer.ca>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Molly Michaelson <molly.michaelson@maryland.gov>; Nick Tew <ntew@ogb.state.al.us>; pauline_dejong@gov.nt.ca <pauline_dejong@gov.nt.ca>; Phil Skorupa <phil.skorupa@dmme.virginia.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; schweire@dhec.sc.gov <schweire@dhec.sc.gov>; Roxanne Reiley <Roxanne.Reiley@tn.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan Hoffman <r.hoffman@kcc.ks.gov>; Scott Perry <scperry@pa.gov>; Weaver, Scott ER <scott.weaver@gov.sk.ca>; Stan Belieu <sbelieu@nogcc.ne.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; John Adams <johnny.adams@la.gov>; Dave Hardie <david.hardie@aer.ca>; Frank Thorwald <frankthorwald@thorwaldgroup.com>
CC: Bob Brinkmann <bob.brinkmann@oregon.gov>; Clay Woodul <clay.woodul@rrc.texas.gov>; Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; aaron.szapa@dnr.mo.gov <aaron.szapa@dnr.mo.gov>; Bart Kettle <bartkettle@utah.gov>; Andrews - DNR, David <david.andrews@state.co.us>; Kirk McQuillan <kmcquillan@ogb.state.al.us>; Brad Ice <Brad.Ice@occ.ok.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>; henry.j.harmon@wv.gov <henry.j.harmon@wv.gov>; Kasberg, Courtney@DOC <Courtney.Kasberg@conservation.ca.gov>; Zellou, Abdel@DOC <Abdel.Zellou@conservation.ca.gov>; Skov, Rian (DNR) <Rian.Skov@dnr.wa.gov>; robert.rice@wv.gov <robert.rice@wv.gov>; Wei Wang <Wei.Wang@rrc.texas.gov>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Eric.Vendel@dnr.ohio.gov <Eric.Vendel@dnr.ohio.gov>; BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; Henderson, Rick (EGLE) <hendersonr2@michigan.gov>
Subject: [EXTERNAL] Canceled: REMINDER - IOGCC Roundtable on Plugging Contract Practices - calendar invite

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

The IOGCC' s Council of Regulatory Officials (CRO) will be conducting a 90-minute roundtable via Zoom on Wednesday, January 26, 2022, from 11:30am-1:00pm CST, to review effective practices for procuring plugging services and managing plugging contracts.

Be advised that you need to register in advance to join this webinar, see link below.

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_hXnXP-HhQcGowO0J3iFA1Q.

After registering, you will receive a confirmation email containing the login information for joining the webinar.

Also, we are still looking for states and provinces to do brief case studies (five to seven minutes)! If your state has a program that you would like to highlight and share, please let me know by ASAP, so that we can add you to the agenda.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
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Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Killen, Patrick <patrickkillen@chevron.com>
Sent: Monday, May 16, 2022 12:21 PM EDT
To: Killen, Patrick <patrickkillen@chevron.com>
Subject: [EXTERNAL] Chevron announces $250,000 donation to New Mexico wildfire relief efforts

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Chevron announces $250,000 donation to New Mexico wildfire relief efforts

SAN RAMON, Calif., May 16, 2022 — Chevron Corporation (NYSE: CVX) todayannounced a contribution of $250,000 from the Chevron Global Community Fund to the All Together NM Fund and Taos Community Foundation to support relief efforts for wildfires in New Mexico.

“Chevron is committed to supporting first responders, local governments, and non-profit organizations as they fight to contain fires across northern New Mexico,” said Mark Urfer, manager of Chevron's Questa Site in Questa, New Mexico, which has employees, contractors, and community partners affected by the situation. “The company's donations reflect our commitment to helping people in the communities where we do business.”

The All Together NM Fund and the Chevron Questa Grants for Good Fund at Taos Community Foundation will each receive a $125,000 donation to support immediate relief efforts throughout the state. In addition, the company will match qualifying donations to wildfire relief efforts made by employees and retirees, as well as provide financial contributions to non-profit organizations where employees volunteer.

“Through our legacy companies, Chevron has been active in New Mexico since the early 1920s,” said Ryder Booth, vice president of Chevron North America Exploration & Production Company's Mid-Continent Business Unit, which includes the company's significant Permian Basin assets in New Mexico and Texas. “Our heartfelt thoughts are with every New Mexican affected by fires in the state, including the firefighters and other responders working tirelessly in challenging conditions.”

About Chevron
Chevron is one of the world’s leading integrated energy companies. We believe affordable, reliable and ever-cleaner energy is essential to achieving a more prosperous and sustainable world. Chevron produces crude oil and natural gas; manufactures transportation fuels, lubricants, petrochemicals and additives; and develops technologies that enhance our business and the industry. We are focused on lowering the carbon intensity in our operations and seeking to grow lower carbon businesses along with our traditional business lines. More information about Chevron is available at www.chevron.com.

About the All Together NM Fund
The All Together NM Fund was established in 2020 by the New Mexico Coalition of Community Foundations in conjunction with the Office of Governor Michelle Lujan Grisham to help New Mexico respond to and eventually recover from the COVID-19 pandemic. Support from the All Together NM Fund is currently going to emergency shelter, food and water distribution, and other critical services for New Mexicans affected by recent wildfire disasters across the state. Santa Fe Community Foundation, which serves as the fiscal agent for the All Together NM Fund, has awarded $116 million in grants since 1981.

About Taos Community Foundation
Taos Community Foundation, home of the Chevron Questa Grants for Good Fund, is dedicated to serving the unique needs of the communities of Taos County and western Colfax County. The organization's philanthropic efforts seek to enrich the lives and opportunities of citizens and protect the environment. Taos Community Foundation is currently awarding grants to support direct assistance for those impacted by wildfires in northern New Mexico. The organization has awarded over $9.3 million dollars in grants and scholarships since 1998.

Contact
Deena McMullen
Deena.McMullen@chevron.com
(432) 363-7085

AMERICAN OVERSIGHT

Subject: [EXTERNAL] COP/OCD Lunch Meeting
Location: La Casa Sena - 125 East Palace Ave. Santa Fe , NM 87501

Start: Thursday, October 07, 2021 1:30 PM EDT
End: Thursday, October 07, 2021 3:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Salazar, Louis C
Required Attendees: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Gibson, Kari S <Kari.Gibson@conocophillips.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>

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Location update, see you all tomorrow.

Louis
Cell 505-320-1911

AMERICAN OVERSIGHT

From: Matthias Sayer <Matthias.Sayer@nglep.com>
Sent: Tuesday, May 17, 2022 5:58 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
CC: Doug White <Doug.White@nglep.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Winn, Lisa <lisa.winn@exxonmobil.com>; Comiskey, Cody <cody.comiskey@chevron.com>; Verner, Frederick C <fredverner@chevron.com>
Subject: [EXTERNAL] County Line Collaborative Response Working Group proposal
Attachment(s): "NMOCD_NGL_Letter_County_Line_Seismicity_Pressure_Connectivity_Test_051722.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Director Sandoval, Deputy Director Polak, Mr. Fuge,

As discussed last week in your office, the County Line Collaborative Response Working Group is requesting approval to conduct a pressure-connectivity test. Please see the attached regarding the proposal and associated request.

Please advise if you have any questions or if additional information is necessary.

Thank you,

Matthias

Matthias Sayer
Senior Vice President, Legal
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Mobile: (307) 365-1814
matthias.sayer@nglep.com
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AMERICAN OVERSIGHT

May 17, 2022

New Mexico Oil Conservation Division
Director Adrienne Sandoval
Santa Fe, NM

Re: ***County Line Seismicity Pressure-Connectivity Test***

Director Sandoval,

As part of its ongoing efforts, the County Line Collaborative Response Working Group (Group) conducted various pressure-connectivity tests in 2021, all of which returned data that has been critical to enhancing the Group's collective understanding. As discussed with the Oil Conservation Division (Division) on May 11, 2022, the Group is proposing and hereby requests authorization to conduct an additional pressure-connectivity test.

Specifically, the Group proposes to initiate a pulse of injection at the NGL Striker 2 (API# 300154441600) and Mesa Verde (API# 300154467600) SWD wells of up to a combined total of 45,000 BPD for up to 60 days[1]. Consistent with the Division's Seismicity Response Protocol (Nov. 23, 2021) (Protocol) and because the Striker 2 and Mesa Verde wells both lie greater than 6 but less than 10 miles distant from the July 19, 2021 ML4.0 seismic event, both wells are presently subject to and operating at or below 75% of their respective previous 6-month daily injection average (applying the Protocol's 25% reduction). To implement the pressure-connectivity test, deviation from the Protocol's 25% reduction is necessary.

In conjunction with the test, in addition to the pressure gauge operating at the NGL Paduca 6 SWD well, a similar gauge would be placed at an XTO SWD to the southwest of the Striker 2 and Mesa Verde wells. As operator of the two SWD wells in question, NGL would provide notice to the Division at least 24 hours prior to test commencement and would continue to report daily injection rates via Division Daily Injection Reports.

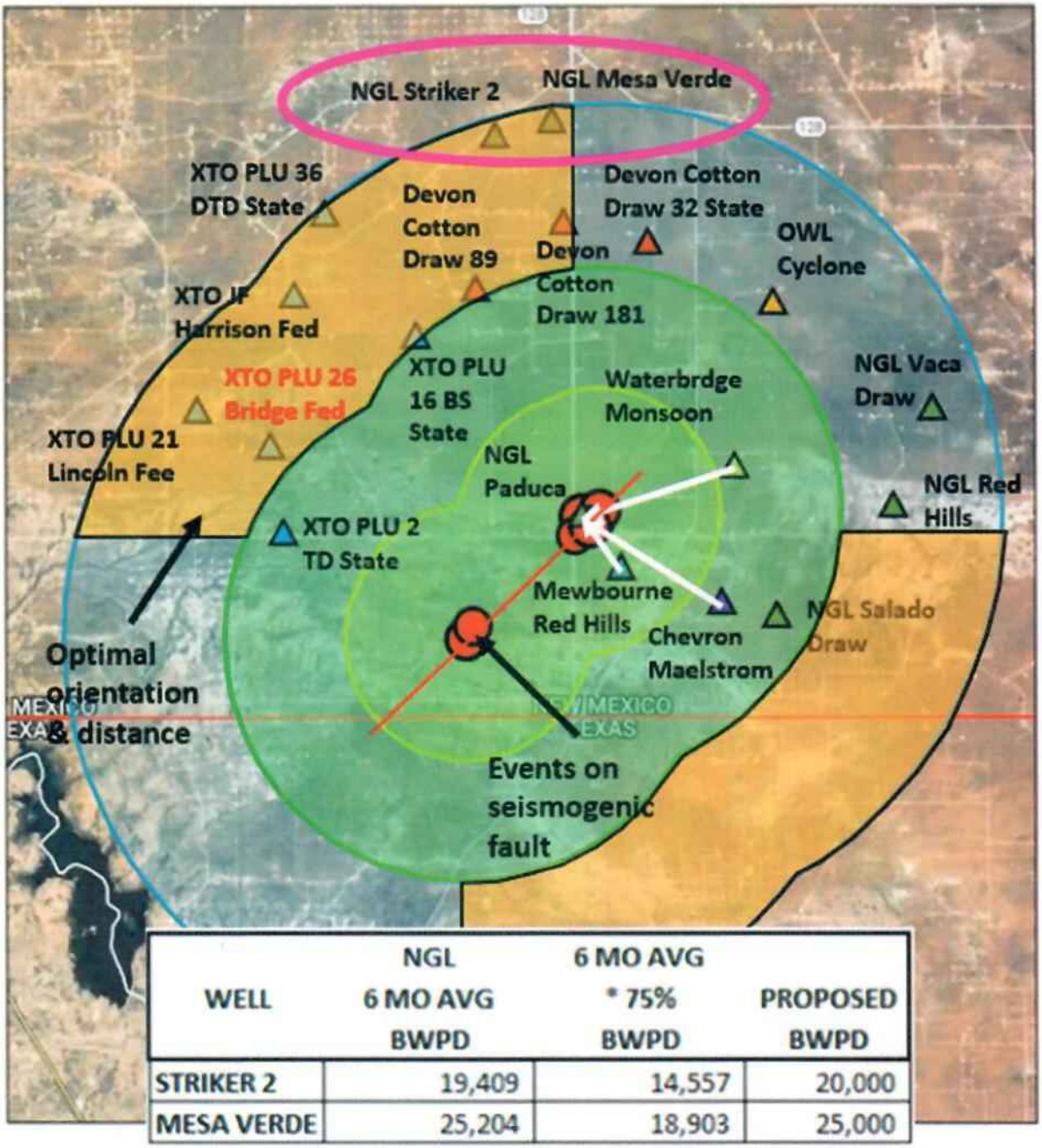
In sum, the Group hereby requests that the Division suspend the 25% curtailment as applied to the NGL Striker 2 and Mesa Verde SWD wells for a period of up to 60 days, which 60-days would begin to run upon commencement of increased injection activity at the two NGL SWDs identified.

Thank you,

Matthias Sayer
SVP Legal, NGL Energy Partners, LP

[1] See Attachment A for approximate well locations / distance from Paduca 6

AMERICAN OVERSIGHT



WELL	NGL 6 MO AVG BWPD	6 MO AVG * 75% BWPD	PROPOSED BWPD
STRIKER 2	19,409	14,557	20,000
MESA VERDE	25,204	18,903	25,000
	44,613	33,460	45,000

AMERICAN OVERSIGHT

From: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Sent: Tuesday, January 25, 2022 3:49 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: [EXTERNAL] County Line Seismicity Response Update?

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne,

Thanks for spending an hour with Lee and me last Thursday. The feedback and answers you provided to our clarifying questions on the response protocol was very helpful, and has already been disseminated to the Deep Disposal & Seismicity Workgroup. I'd like to reiterate the Eddy/Lea Seismicity Response group's offer to show you and your staff the operational actions we've taken there to address the seismicity, the effect it's having on the frequency & magnitude of events, and the results to date of our cross-company pulse pressure tests. Please let us know if you and/or your staff would be available in the next week or two for such an update.

Take care,

Stefan A. Hussenoeder
Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas
EMHC, W1.1B.478
22777 Springwoods Village Parkway
Spring, TX 77389

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Mysite: http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse
Linkedin: https://www.linkedin.com/in/shussenoeder

AMERICAN OVERSIGHT

From: Perez, Yolanda <Yolanda_Perez@oxy.com>
Sent: Monday, March 21, 2022 2:17 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
CC: John Smitherman <JRS@nmoga.org>
Subject: [EXTERNAL] Data Audit Volunteering & JCM

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Happy Monday,

Operators are wanting to understand what the audit process would like if they volunteer to work with OCD on data discrepancies. Is it as much as, "Can you please explain why there is a discrepancy between your vent volume on C-115 vs vent volume reported on C-115B?" Or, is it a more complicated/aggressive process than that?

Also, NMOGA's next JCM is next Wednesday, March 30th, from 1:30-3:30 MT. Do you have any interest in addressing the group?

Sincerely,
Yolanda Perez
Sr. Regulatory Affairs Consultant
Occidental Oil & Gas
5 Greenway Plaza Suite 110 Houston, TX 77046
Room 11.023
Office (713) 497-2069
Cell (281) 793-1680
yolanda_perez@oxy.com

AMERICAN OVERSIGHT

From: Zoom <no-reply@zoom.us>
Sent: Monday, February 28, 2022 9:30 AM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Department of Energy - Undocumented Orphan Well Program Confirmation from IOGCC

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Adrienne Sandoval,

Thank you for registering for "Department of Energy - Undocumented Orphan Well Program". Please save this email or add this event to your calendar below. You will need this link to join. Please do not share or forward this link.

Please submit any questions to: amy.childers@iogcc.state.ok.us

Date Time: Mar 17, 2022 11:00 AM Central Time (US and Canada)

Join from a PC, Mac, iPad, iPhone or Android device:
Click Here to Join
Note: This link should not be shared with others; it is unique to you.
Add to Calendar Add to Google Calendar Add to Yahoo Calendar

Or iPhone one-tap :
US: +12532158782,,83515259958# or +13462487799,,83515259958#

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656
Webinar ID: 835 1525 9958
International numbers available: https://us02web.zoom.us/u/kD8Hs1of7

You can cancel your registration at any time.

AMERICAN OVERSIGHT

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, March 21, 2022 3:58 PM EDT
Subject: [EXTERNAL] Department of Energy Undocumented Orphan Wells Program - State Survey

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

Thank you for attending last week's meeting with the U.S. Department of Energy (DOE) regarding the Undocumented Orphan Wells Program. As mentioned during the meeting, DOE is seeking information and collaboration from the states to gain insight into best practices and to determine states' technological needs for identifying and characterizing undocumented orphan wells. We assisted the National Laboratories in compiling a short survey of questions to inform DOE's research, development, demonstration, and deployment (RDD&D).

Please complete the survey by Friday, April 1, 2022, using the link below:
https://www.surveymonkey.com/r/QKPQ6HK

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Dinner Placeholder
Location: Red Primesteak. (504 N Broadway Ave, Oklahoma City, OK 73102, United States)

Start: Monday, May 16, 2022 8:45 PM EDT
End: Monday, May 16, 2022 10:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Salazar, Louis C
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>

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I will send an updated location soon

Microsoft Teams meeting

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Meeting ID: 224 922 191 751
Passcode: N2MCJh

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AMERICAN OVERSIGHT

Subject: [EXTERNAL] Discuss SEG/SPE Regulatory session
Location: Microsoft Teams Meeting

Start: Tuesday, May 10, 2022 1:00 PM EDT
End: Tuesday, May 10, 2022 2:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Gaucher, Michelle
Required Attendees: Gaucher, Michelle <Michelle.Gaucher@bcogc.ca>; Colin.Brooks@occ.ok.gov <Colin.Brooks@occ.ok.gov>; Todd Shipman <Todd.Shipman@aer.ca>; Venables, Stuart <Stuart.Venables@bcogc.ca>; Comiskey, Cody <cody.comiskey@chevron.com>; James.gonsiewski@dnr.ohio.gov <James.gonsiewski@dnr.ohio.gov>; Adrienne.Sandoval@state.nm.us <Adrienne.Sandoval@state.nm.us>; Paul.Dubois@rrc.texas.gov <Paul.Dubois@rrc.texas.gov>

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I apologize for the delay in booking this meeting. I hope many of you can make this timing on the 10th.

We will discuss the panel session content and flow and get some input from you; the panelists. For those unable to make this timing, I will summarize the key points and share in email format afterward. Alternatively, if necessary, I can book a 2nd meeting the following week.

Thanks
Michelle

Microsoft Teams meeting

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994240142@t.plcm.vc
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AMERICAN OVERSIGHT

From: Jordan Kessler <Jordan_Kessler@eogresources.com>
Sent: Wednesday, March 09, 2022 12:15 PM EST
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Patrick Padilla <Patrick_Padilla@eogresources.com>
Subject: [EXTERNAL] Drilling tolerance for as-drilled wells

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Hi Brandon,

Thanks for talking yesterday. Here's a summary of the issue:

BLM allows EOG to submit sundries after drilling for minor changes in location within the quarter quarter section. A recent example is a change for the length of the completed interval from approximately 440 feet from the west line to 330 feet from the west line. The updated drilling locations are to an orthodox location at 330 feet from the boundary line. EOG changes this location from the originally permitted location (most typically) so that we can place an additional well in the spacing unit, and BLM authorizes the practice because of their backlog in approvals, so that companies aren't waiting nine months for a location change.

The completed interval has drifted slightly closer to the outer boundary of the spacing unit during drilling on some of these wells. Again, a recent example is for a well projected to be 330 feet off the western boundary, as-drilled the location was approximately 317 feet off of the line. The as-drilleds are always within the 50 foot tolerance.

Because the sundries with the new locations are not yet approved by the BLM, we are in no man's land on the 50 foot drilling tolerance. I've copied the rule below. Part (c) would seem to allow us to apply the 50 foot drilling tolerance in the as-drilled scenario since the language says "projected location" rather than "approved" or "permitted location," which is used in other places in the rule. As you likely recall from the hearing, the spirit of the rule was to allow a 50 foot drilling tolerance from the 330 line, which would apply to the present scenario. I remain unsure, so out of an abundance of caution, I've been submitting NSL requests to the OCD until I receive guidance.

There are a number of these situations in the queue—it is hard for me to get a good estimate, but upwards of 50-100, and I don't OCD to unnecessarily expend time. I have advised EOG that going forward the permit needs to be filed at 330 so this situation will be avoided. Could you please let me know the OCD's position on whether it is acceptable to apply the 50 foot drilling tolerance rather than pursue an NSL?

Thanks!
Jordan

_____

19.15.16.15(C)
(5) Unorthodox well locations. The horizontal well's location is considered unorthodox if:
(a) any part of the horizontal well's completed interval is projected to be closer to an outer boundary of the horizontal spacing unit than allowed by Paragraph (1) of Subsection C of 19.15.16.15 NMAC, or other applicable rule or special pool order;
(b) a directional survey shows that the horizontal well's first or last take point, as drilled, is located closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (b) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC;
(c) a directional survey shows that any part of the horizontal well's completed interval, as drilled, is more than 50 feet from its projected location and closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (a) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC or other applicable rule or special pool order; or
(d) for previously approved unorthodox well locations, if a directional survey shows that any part of the completed interval is located more than 50 feet (or, if less, twenty-five percent of the previously authorized distance) closer to the outer boundary of the horizontal spacing unit than the approved location

Jordan Kessler
Senior Regulatory Advisor
eog resources
125 Lincoln Avenue, Suite 213
Santa Fe, NM 87501
Mobile: (432) 488-6108
Office: (575) 748-4158
jordan_kessler@eogresources.com

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From: John Smitherman <JRS@nmoga.org>
Sent: Wednesday, May 11, 2022 5:38 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: John Smitherman <JRS@nmoga.org>
Subject: [EXTERNAL] Errors filing C-115s today

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Director,

I have heard from several operators who have experienced massive errors when filing C-115s today. Some have said that files that were submitted successfully yesterday are failing today. I do not know the source of this but it seems that some change has been made within the OCD's data system that is now rejecting files.

If this was due to a change in the OCD system to align with the new gas lift guidance that was just recently issued, I believe that operators will need some time to make changes to their systems to be able to file C-115s without these errors. Recall that most operators use commercial software for production allocation and reporting so they cannot even make these changes to these systems themselves. In order to file this important data, it seems that we need to work out a pathway from where the system was yesterday to where it needs to be within a reasonable amount of time, perhaps within 60-90 days. There are several ways to address this and, of course, we can be flexible with whatever pathway you choose but I suspect that no operator of any size will be able to file correctly, on time, by the 15th of this month without some accommodation.

Thank you for your consideration.

All the best,

John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer

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From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, February 07, 2022 11:39 AM EST
Subject: [EXTERNAL] Extension: 2022 IOGCC Energy Resources, Research and Technology Committee Survey
Attachment(s): "IOGCC ERRT State Issues Survey for 2022.docx"

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Good morning Oil and Gas Directors,

The ERRT committee is seeking your input on the 2022 knowledge-sharing project. This project connects oil and gas regulators with relevant technical societies – including but not limited to SPE, AAPG, API, AGI, IADC – to facilitate transfer of technical information regarding regulators' key emerging issues of concern, with topics refreshed annually on the portal. The committee will present the 2022 topics and next steps for the project at the Annual Business Meeting in Oklahoma City in May.

Although the initial deadline has passed, the ERRT committee is extending the deadline with the hopes of receiving a few more survey responses. A well-rounded data set will help the ERRT committee decide on the technical issues that are of the utmost importance to the states and provinces.

If you would like to voice your state's technical issues of concern, please complete the short survey attached and return to Kaitlyn Smith at Kaitlyn.smith@iogcc.state.ok.us by **Friday February 11th , 2022.**

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829

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IOGCC ERRT COMMITTEE STATE & PROVINCIAL SURVEY FOR KNOWLEDGE-SHARING PROJECT

The ERRT committee is once again asking member states and provinces to identify priority technical, engineering, geophysical, geological, and operational issues for research and feedback from technical societies.

As always, your ideas are greatly appreciated as this will be used to develop our 2022 list of topics that will be used to solicit technical societies for feedback and resources, develop a list of subject matter experts, program a series of topical webinars, and be reviewed at the Annual Business Meeting in May 2022.

Thanks to all of you who responded to this survey in previous years. We understand that topics may stay the same from year to year. We would appreciate your responses even if they are similar to previous submissions along with any details you have, so that we can best tailor programs and materials for you.

Member State or Province:

State/Provincial point of contact for ERRT:

What are the top 3 technical issues in your jurisdiction currently?

1. Issue: _____

- **What technologies regarding this issue are of interest to you?**
- **What kind of information and/or technologies would most help you respond to this issue?**
- **Why is this a priority in your jurisdiction?**

2. Issue: _____

- **What technologies regarding this issue are of interest to you?**

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- **What kind of information and/or technologies would most help you respond to this issue?**

- **Why is this a priority in your jurisdiction?**

3. Issue: _____

- **What technologies regarding this issue are of interest to you?**

- **What kind of information and/or technologies would most help you respond to this issue?**

- **Why is this a priority in your jurisdiction?**

Please list any additional issues of concern you would like to note below:

_____

In the past year, have you or your team 1) used technical material on the ERRT regulator-only portal, 2) contacted the listed subject matter experts, or 3) attended ERRT topical webinars?

Webinars are an important part of the project's content delivery program. What topics would you like future webinars to cover, and do you have any suggestions for formatting?

This project is designed to provide regulators with resources to respond to regulator-identified emerging technical challenges, with content and support from technical societies. Do you feel this has been accomplished? If not, what else could we do to accomplish this? In particular, we are interested in your suggestions on the portal, on

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the Subject Matter Experts (including nominations), and on webinar topics/presenters.

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Subject: [EXTERNAL] February 23, 2022 JITC Executive Committee Meeting
Location: https://exxonmobil.zoom.us/j/91379292399; XTO Office, 6401 Holiday Hill Road, Midland Tx. 79707

Start: Wednesday, February 23, 2022 10:00 AM EST
End: Wednesday, February 23, 2022 1:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Gahr, Jason Z
Required Attendees: Gahr, Jason Z <jason.z.gahr@exxonmobil.com>; addi@chevron.com <addi@chevron.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Albert.Gonzales@conocophillips.com <Albert.Gonzales@conocophillips.com>; bhall@marathonoil.com <bhall@marathonoil.com>; blake@coveyenergy.com <blake@coveyenergy.com>; BLM - Jim Rutley <jrutley@blm.gov>; Bramsey@taprk.com <Bramsey@taprk.com>; Brian.Stone@intrepidpotash.com <Brian.Stone@intrepidpotash.com>; Cade.LaBolt@matadorresources.com <Cade.LaBolt@matadorresources.com>; ccombs@taprk.com <ccombs@taprk.com>; CHahn@matadorresources.com <CHahn@matadorresources.com>; Chando, Jesse M <jesse.m.chando@exxonmobil.com>; cmitchell@mewbourne.com <cmitchell@mewbourne.com>; Cody Layton (clayton@blm.gov) <clayton@blm.gov>; cwalls@blm.gov <cwalls@blm.gov>; Dan.Morehouse@MosaicCo.com <Dan.Morehouse@MosaicCo.com>; Daniel_Holderman@oxy.com <Daniel_Holderman@oxy.com>; Edward.Blair@chevron.com <Edward.Blair@chevron.com>; Garrett_Granier@oxy.com <Garrett_Granier@oxy.com>; Greg.Bruce@IntrepidPotash.com <Greg.Bruce@IntrepidPotash.com>; Gregory_Caraway@oxy.com <Gregory_Caraway@oxy.com>; Hall, James A <james.hall@exxonmobil.com>; James Clark; James_Griffin@eogresources.com <James_Griffin@eogresources.com>; Jason South <Jason@primerockresources.com>; Jeff.Walla@dvn.com <Jeff.Walla@dvn.com>; John.Anderson@mosaicco.com <John.Anderson@mosaicco.com>; jrs@nmoga.org <jrs@nmoga.org>; jstovall@blm.gov <jstovall@blm.gov>; jtimmons@blm.gov <jtimmons@blm.gov>; kelvin@pbex.com <kelvin@pbex.com>; kshipley@novoog.com <kshipley@novoog.com>; kyle.smith@intrepidpotash.com <kyle.smith@intrepidpotash.com>; Laci_Stretcher@eogresources.com <Laci_Stretcher@eogresources.com>; Lpatrick@novoog.com <Lpatrick@novoog.com>; mbmurphy@stratanm.com <mbmurphy@stratanm.com>; mkrakauskas@stratanm.com <mkrakauskas@stratanm.com>; mszudera@marathonoil.com <mszudera@marathonoil.com>; Parker.Simmons@conocophillips.com <Parker.Simmons@conocophillips.com>; Patrick_Padilla@eogresources.com <Patrick_Padilla@eogresources.com>; Paul.Gill@mosaicco.com <Paul.Gill@mosaicco.com>; rdelong@titusoil.com <rdelong@titusoil.com>; Ric.Bell@mosaicco.com <Ric.Bell@mosaicco.com>; Robert Baldridge (robert.baldridge@intrepidpotash.com) <robert.baldridge@intrepidpotash.com>; SHajar@btaoil.com <SHajar@btaoil.com>; skelley@stratanm.com <skelley@stratanm.com>; Skylar.Fast@cdevinc.com <Skylar.Fast@cdevinc.com>; susan.b.maunder@conocophillips.com <susan.b.maunder@conocophillips.com>; T Bryson <tbryson@blm.gov>; tcude@mewbourne.com <tcude@mewbourne.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Travis.McBain@IntrepidPotash.com <Travis.McBain@IntrepidPotash.com>; Walls, Christopher; Christopher <cwalls@blm.gov>; Will Fenley <will.fenley@intrepidpotash.com>; Stan Wagner <Stan.S.Wagner@conocophillips.com>; Parker Simmons <psimmons@colgateenergy.com>
Optional Attendees: Hall, Brian (MRO) <bhall@marathonoil.com>; Bell, Ric <Ric.Bell@mosaicco.com>; Brian Stone <Brian.Stone@intrepidpotash.com>; Travis McBain <travis.mcbain@intrepidpotash.com>; John Smitherman <JRS@nmoga.org>; Granier, Garrett E <Garrett_Granier@oxy.com>; Gonzales, Albert <Albert.Gonzales@conocophillips.com>; Corey Mitchell <cmitchell@Mewbourne.com>; Jeff Trlica <jtrlica@taprk.com>; Kurt Shipley <kshipley@novoog.com>; Cade LaBolt <cade.labolt@matadorresources.com>; Stovall, James K <jstovall@blm.gov>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>; Christian Combs <ccombs@taprk.com>; Gill, Paul <Paul.Gill@mosaicco.com>; Patrick Padilla <Patrick_Padilla@eogresources.com>; James Griffin <James_Griffin@eogresources.com>; Tim Smith <tsmith@titusoil.com>; James Clark <james@pbex.com>; Kelvin Fisher <kelvin@pbex.com>; Ryan DeLong <rdelong@titusoil.com>; Blake O'Donnel <blake@coveyenergy.com>; Giffin, David R <David.R.Giffin@conocophillips.com>; Skylar Fast <Skylar.Fast@cdevinc.com>; Blair, Ed S. <Edward.Blair@chevron.com>; Schellenbach, William <William.Schellenbach@conocophillips.com>; Walla, Jeff <Jeff.Walla@dvn.com>; Schwartz, Kenneth M. <addi@chevron.com>; Caraway, Gregory A <Gregory_Caraway@oxy.com>; Larry Patrick <LPatrick@novoog.com>; Holderman, Daniel P <Daniel_Holderman@oxy.com>; Baker, Tim <Tim.Baker@conocophillips.com>; Bennett, Andy <Andy.Bennett@dvn.com>

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We look forward to seeing you all next Wednesday. Zoom invite below. **VENUE HAS CHANGED TO XTO OFFICE XTO: 6401 Holiday Hill Road, Midland Tx. 79707**

JITC Meeting Agenda
23 Feb 2021
Venue: XTO Office, 6401 Holiday Hill Road, Midland Tx. 79707
Start Time: 09:00 hrs; Lunch: 11:45; Planned Adjourn: 13:15 hrs

Items of business:

Item	Start	Duration	Presenter	Topic
1	9:00	0:05		Call Meeting to Order and designate a scribe/note taker.
2	9:05	0:10		Roll call
3	9:15	0:15	Baldridge	Review of meeting minutes from 06 October 2021 JITC meeting and acceptance into record.
4	9:30	0:20	Gahr	Update on agreement by Oil and Gas companies to operate to 4 November 2021 draft of R-111Q (R-111P revision). Discussion on mechanisms to codify final revised guidelines when available.
5	9:50	0:30	Griffin	Update on progress within the Well Integrity Working group and forward plans. Introduction of WIWG co-chairs.
6	10:20	0:15	Rutley	Updates from BLM
7	10:35	0:10	All	10 minute break
8	10:45	0:10	Padilla	Outcome of proposal to study produced water/water recycling
9	10:55	0:50	Hightower	Presentation from the Produced Water Consortium
10	11:45	0:40	All	Lunch
11	12:25	0:30	Baldridge	Updates on JITC Governance Document
12	12:55	0:20	All	Any other topics, set next meeting dates for WIWG and JITC
	13:15	0:00		Adjourn

All – several of our key executive committee members have a schedule conflict that has recently materialized and will prevent their participation in the meeting planned for 23 January.

In light of this development we **will postpone the first JITC meeting of 2022 to Wednesday February 23rd. All other details including start time and venue will remain the same.**

Thanks to EOG for agreeing to host despite the date change.

Our apologies for any inconvenience this change causes, and we look forward to seeing you in February.

Robert Baldridge (Intrepid) and Jason Gahr (ExxonMobil)

We look forward to seeing you at the **next JITC meeting to be held 19 January, 2021 at the EOG office in Midland**, starting at 0900 hrs Central.

The address is 5509 Champions Dr, Midland, TX 79706. There is ample guest parking in front of the campus.

EOG is kindly providing both breakfast and lunch, so come hungry! (There are not too many venues where you get good food, good conversation, *and* good company all for free!)

Zoom is also available for remote attendees.

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Join Meeting

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115.114.115.7 (India Hyderabad)
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213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
91379292399@162.255.36.11 (US East)

Meeting ID: 913 7929 2399

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Subject: [EXTERNAL] FW: BLM/OCD Feedback for WIWG Drilling Best Practices
Location: 125 Lincoln Avenue, Suite 213 Santa, Fe NM 87501

Start: Thursday, March 31, 2022 11:00 AM EDT
End: Thursday, March 31, 2022 2:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: James Griffin
Required Attendees: James Griffin <James_Griffin@eogresources.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne, please forward to anyone on your end who will be attending with you Thursday….thanks.

-----Original Appointment-----
From: James Griffin <James_Griffin@eogresources.com>
Sent: Monday, March 28, 2022 10:06 AM
To: James Griffin; Patrick Padilla; Will Fenley; Giffin, David R; Petley, William Edward; psimmons@colgateenergy.com; Morehouse, Dan; Podust, Alex V; Bell, Ric
Cc: Gill, Paul; abourland@novoog.com; Jesse.m.Chando@exxonmobil.com; rdelong@titusoil.com; Granier, Garrett E; Gahr, Jason Z; Anderson, John; Brian Stone; tsmith@titusoil.com; Robert Baldridge; skelley@stratanm.com; ljackson@mewbourne.com; Gregory_Caraway@oxy.com; Greg Bruce
Subject: FW: BLM/OCD Feedback for WIWG Drilling Best Practices
When: Thursday, March 31, 2022 9:00 AM-12:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: 125 Lincoln Avenue, Suite 213 Santa, Fe NM 87501

-----Original Appointment-----
From: James Griffin
Sent: Monday, March 28, 2022 7:25 AM
To: James Griffin; Will Fenley; Giffin, David R; Petley, William Edward; psimmons@colgateenergy.com; Morehouse, Dan; Podust, Alex V; Bell, Ric
Cc: Gill, Paul; abourland@novoog.com; Jesse.m.Chando@exxonmobil.com; rdelong@titusoil.com; Granier, Garrett E; Gahr, Jason Z; Anderson, John; Brian Stone; tsmith@titusoil.com; Robert Baldridge; skelley@stratanm.com; ljackson@mewbourne.com; Gregory_Caraway@oxy.com; Greg Bruce
Subject: BLM/OCD Feedback for WIWG Drilling Best Practices
When: Thursday, March 31, 2022 9:00 AM-12:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: 125 Lincoln Avenue, Suite 213 Santa, Fe NM 87501

Patrick,

Please forward this on to the BLM/OCD respectively. In this meeting we will review the latest draft of the WIWG's Drilling Best Practices and seek BLM/OCD feedback on the document in its entirety. The latest draft will be distributed later this morning to the same distribution group in this meeting.

Microsoft Teams meeting

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Subject: [EXTERNAL] FW: Dinner with OCD management
Location: Pranzo

Start: Wednesday, May 04, 2022 8:00 PM EDT
End: Wednesday, May 04, 2022 10:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Jordan Kessler
Required Attendees: Jordan Kessler <Jordan_Kessler@eogresources.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

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-----Original Appointment-----
From: Jordan Kessler
Sent: Friday, April 29, 2022 11:32 AM
To: Jordan Kessler; Keith Valentine; John Shelton; Sarah Mitchell; Patrick Padilla
Subject: Dinner with OCD management
When: Wednesday, May 4, 2022 6:00 PM-8:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: Pranzo

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From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Thursday, November 04, 2021 1:38 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Charlie Burd <cburd@gowv.com>; Basil Seggos <basil.seggos@dec.ny.gov>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; David Shabazian <david.shabazian@conservation.ca.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; Jeff Robbins <jeff.robbins@state.co.us>; Jeremy Price <jeremy.price@alaska.gov>; Jess New <Jnew@ogb.state.ms.us>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; Richard Ieyoub <richard.Ieyoub@la.gov>; Russell Retherford <rretherford@dnr.in.gov>; Scott R. Perry <scperry@pa.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmondmt@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; William S. Daugherty <billd@blackridgeusa.com>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Roxanne Reiley <roxanne.reiley@tn.gov>; chioma.izugbokwe@gov.yk.ca <chioma.izugbokwe@gov.yk.ca>; John M. Wood <john.wood@ferc.gov>; kim.doane@novascotia.ca <kim.doane@novascotia.ca>; Martin Foy <martin.foy@aer.ca>; Nancy Johnson <nancy.johnson@hq.doe.gov>; paul.jeakins@bcogc.ca <paul.jeakins@bcogc.ca>; pauline_dejong@gov.nt.ca <pauline_dejong@gov.nt.ca>; sharla.hordenchuk@gov.sk.ca <sharla.hordenchuk@gov.sk.ca>; Alleman, David <david.alleman@hq.doe.gov>
CC: Bob Harris <Bob@rchcae.com>; Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Molly Michaelson -MDE- <molly.michaelson@maryland.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; Stratton Edwards <sedwards@capitolhillcg.com>
Subject: [EXTERNAL] FW: Invitation to Strategic Planning Session, 2021 Annual Conference, Santa Fe, New Mexico, November 7-9, 2021
Attachment(s): "Invitation to Official Representatives.pdf","Bob Harris on Strategic Planning.pdf","2021 Strategic Planning Survey Analysis - updated 10.1.pdf","Data_Q16_210921.pdf","Data_Q17_210922.pdf","Strategic Plan Discussion Draft.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

REMINDER: The strategic planning session begins at 3:00 PM MT on Sunday, November 7th, in the Zuni Ballroom at the Inn at Loretto.

If you or your delegate will be participating remotely and have not already received your invitation from Zoom, please let Kaitlyn or me know.

From: Lori Wrotenbery
Sent: Friday, October 22, 2021 1:09 PM
To: Adam W. Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Charlie Burd <cburd@gowv.com>; Basil Seggos <basil.seggos@dec.ny.gov>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; David Shabazian <david.shabazian@conservation.ca.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; Jeff Robbins <jeff.robbins@state.co.us>; Jeremy Price <jeremy.price@alaska.gov>; Jess New <Jnew@ogb.state.ms.us>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; Richard Ieyoub <richard.Ieyoub@la.gov>; Russell Retherford <rretherford@dnr.in.gov>; Scott R. Perry <scperry@pa.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmondmt@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; William S. Daugherty <billd@blackridgeusa.com>; Dan.Brennan@illinois.gov; Roxanne Reiley <roxanne.reiley@tn.gov>; Blair Wagar <blair.wagar@gov.sk.ca>; Chioma Izugbokwe <chioma.izugbokwe@gov.yk.ca>; John M. Wood <john.wood@ferc.gov>; Kimberly Anne Doane <kim.doane@novascotia.ca>; Martin Foy <martin.foy@aer.ca>; Nancy Johnson <nancy.johnson@hq.doe.gov>; Paul Jeakins <paul.jeakins@bcogc.ca>; Pauline de Jong <pauline_dejong@gov.nt.ca>
Cc: Bob Harris <Bob@rchcae.com>; Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Molly Michaelson -MDE- <molly.michaelson@maryland.gov>; Mike Lees <michael.lees@state.sd.us>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; Stratton Edwards <sedwards@capitolhillcg.com>
Subject: Invitation to Strategic Planning Session, 2021 Annual Conference, Santa Fe, New Mexico, November 7-9, 2021

Dear Official Representatives,

Attached is your invitation to the strategic planning session to be conducted in conjunction with the 2021 Annual Conference in Santa Fe. The other attachments are materials to help you prepare for this session.

Please let me know if you need additional information.

Thanks,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission

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Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

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Interstate Oil and Gas Compact Commission

2021 Strategic Planning Survey
Preliminary Analysis

Kaitlyn Smith, Technical Coordinator

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NM-EMNRD-22-0512-B-000169

Agenda

- Purpose of the Survey
- Detailed Survey Analysis
- IOGCC Mission Statement and Vision
- Development of Strategic Plan

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Purpose of the Survey

- Prepare to update the IOGCC strategic plan and conduct an environmental scan.
- Survey questions addressed:
  - Issues facing the IOGCC membership.
  - Services provided by IOGCC.
- Received 58 completed responses.
- Will help ensure services and activities continue to align with member needs.

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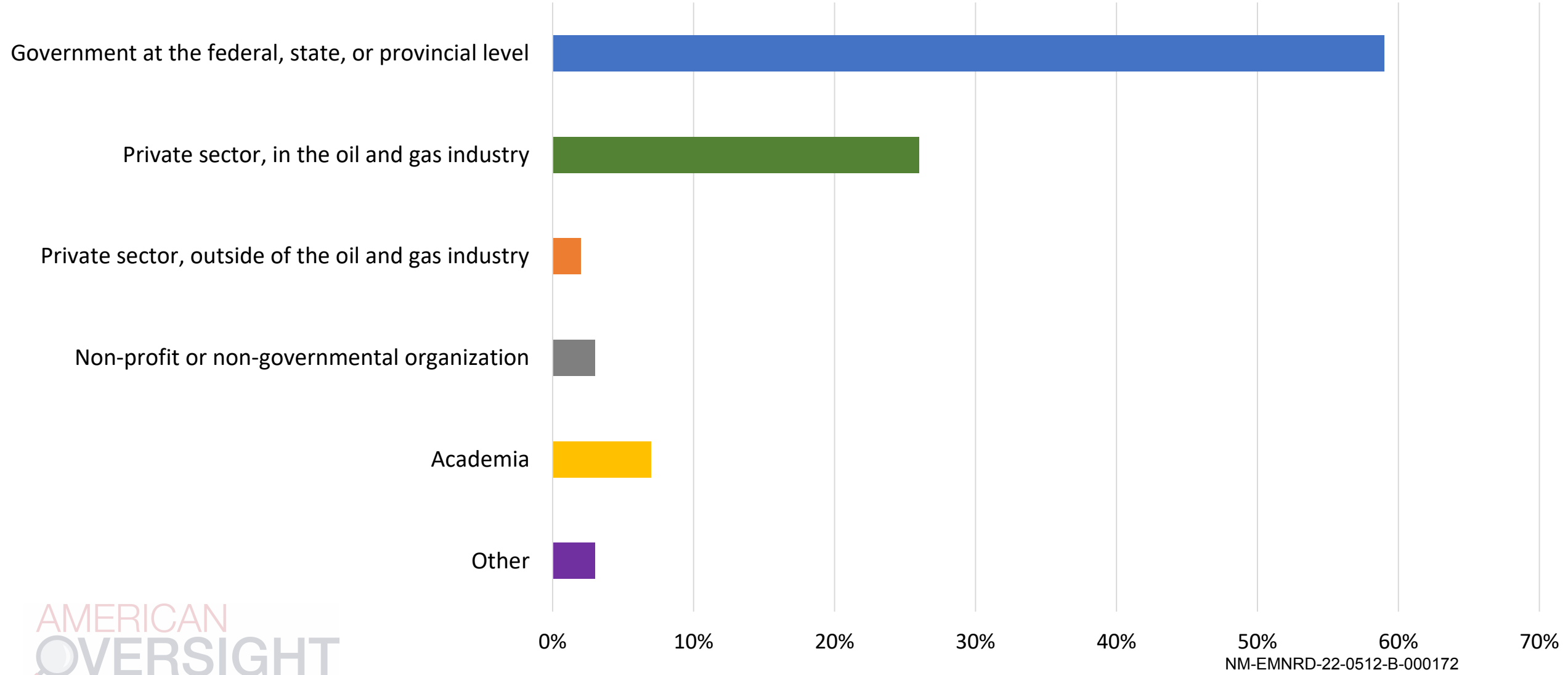
Member's Category of Work



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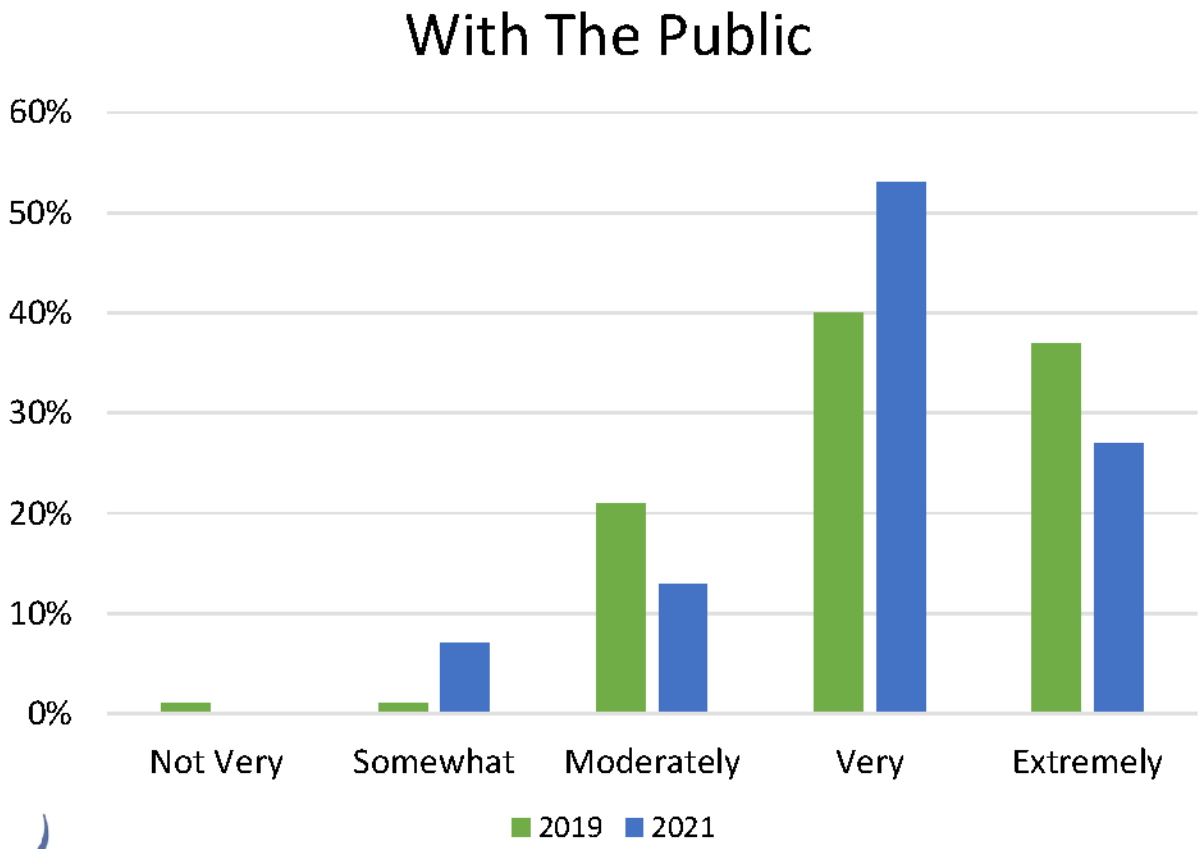
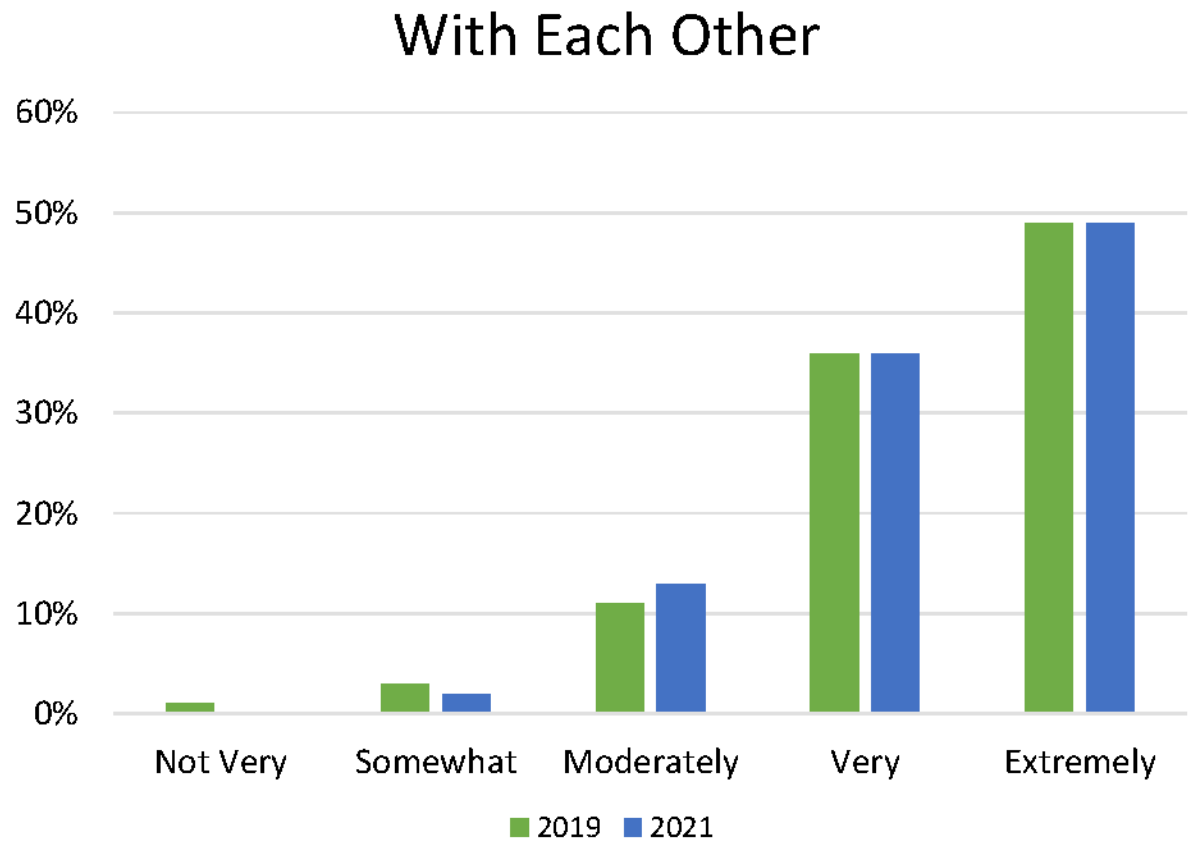
* 58 submitted responses

Importance of Sharing Information





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INTERSTATE Oil & Gas COMPACT COMMISSION

* 2019 - 94 submitted responses
* 2021 - 55 submitted responses

Top Topics To Share With Public

2019

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. Produced Water Recycling and Reuse
4. Technology Innovations
5. Hydraulic Fracturing

* 78 submitted responses

2021

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. General Energy Knowledge/Factual Data
4. Importance of Fossil Fuels in Society
5. Health and Safety of Public

* 48 submitted responses

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INTERSTATE Oil & Gas COMPACT COMMISSION

Top Topics To Share With Each Other

2019

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Environmental Issues and Groundwater Protection
3. Produced Water Recycling and Reuse
4. Technology Innovations
5. Hydraulic Fracturing

* 78 submitted responses

2021

1. Sharing Best Practices for Rules, Regulations, and Strategies
2. Plugging and Identifying of Idle/Orphan Wells
3. Technology Innovations
4. CCUS
5. Hydraulic Fracturing and Horizontal Drilling

* 48 submitted responses

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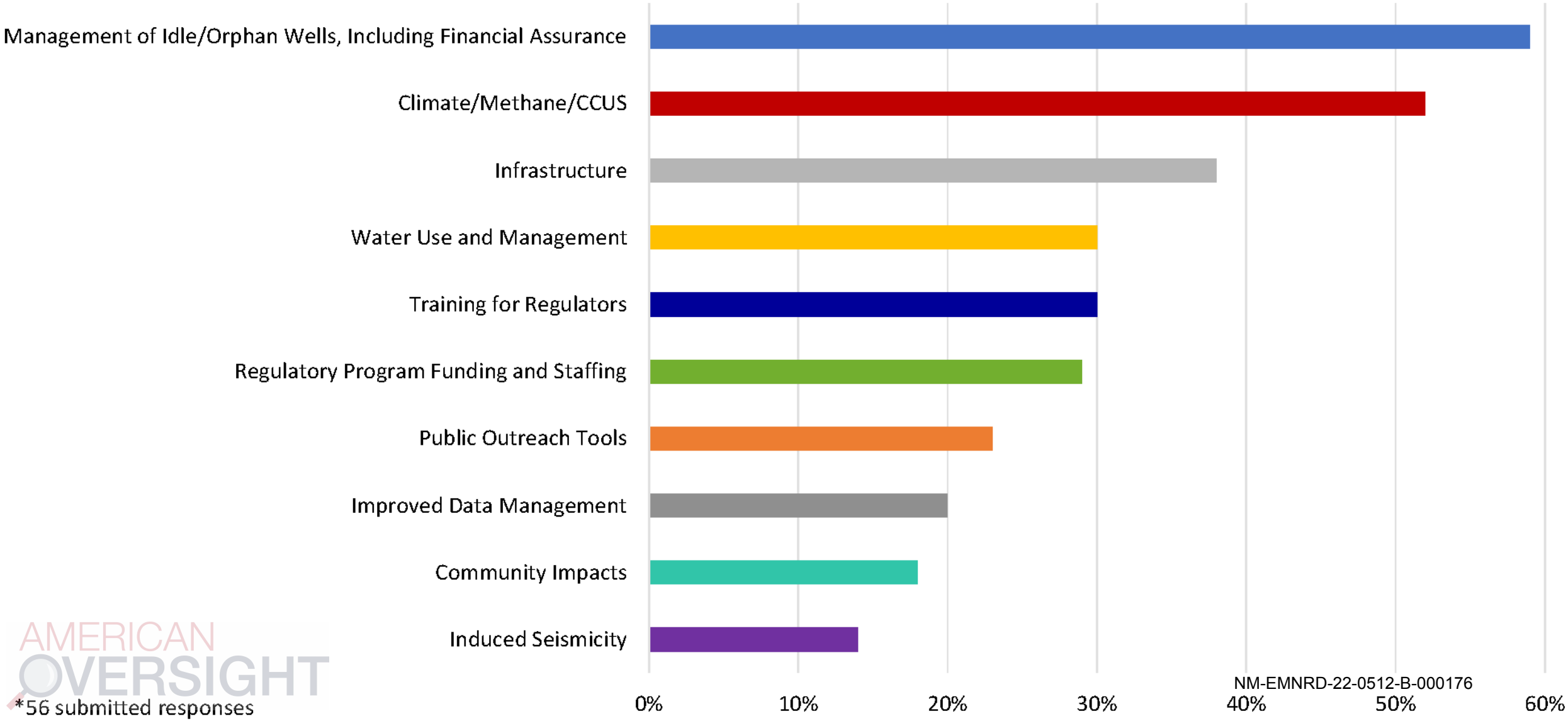
INTERSTATE Oil & Gas COMPACT COMMISSION

Top Areas of Interest



*56 submitted responses

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Additional Areas of Interest

- What is one area that needs to be addressed that is not listed in question 13?
  - 37 respondents answered this question.
  - Top additional areas of interest:
    - Hydraulic Fracturing and Horizontal Drilling and Completions
    - Environmental, Social, and Governance (ESG) for Regulators
    - Underground Injection Control (UIC)
    - Wellbore Integrity

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Technologies To Better Understand

2019

1. Horizontal Drilling, Hydraulic Fracturing, and Completions
2. Produced Water Recycle and Reuse
3. Induced Seismicity and Seismic Monitoring
4. Methane Monitoring and Flaring Alternatives
5. Advanced Data Management and Analytics

*76 submitted responses

2021

1. CCUS
2. Horizontal Drilling, Hydraulic Fracturing, and Completions
2. Artificial Intelligence, Advanced Data Management and Analytics, and Remote Monitoring
2. Methane Detection and Flaring Elimination
5. Plugging and Cementing

*48 submitted responses

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INTERSTATE Oil & Gas COMPACT COMMISSION

Technologies Connected to ERRT

- 2021 Technical Topics from ERRT Survey:
    1. Plugging and Remediating Orphan Wells and Sites
    2. Venting and Flaring
    3. EOR/Hydrogen
    4. Hydraulic Fracturing/Completions
- All four topics align with 2021 technologies to better understand.
- ERRT promotes 2021 topics via knowledge-sharing project portal and webinar series.
- Example of how Standing Committees assist in carrying out the IOGCC Strategic Plan.

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Best Mechanisms For Sharing Information

2019

1. Meetings/Workshops
2. Common Database Systems
3. Webinars/Online Trainings

*93 submitted responses

2021

1. Webinars/Online Trainings
2. Meetings/Workshops
3. Common Database Systems

*55 submitted responses

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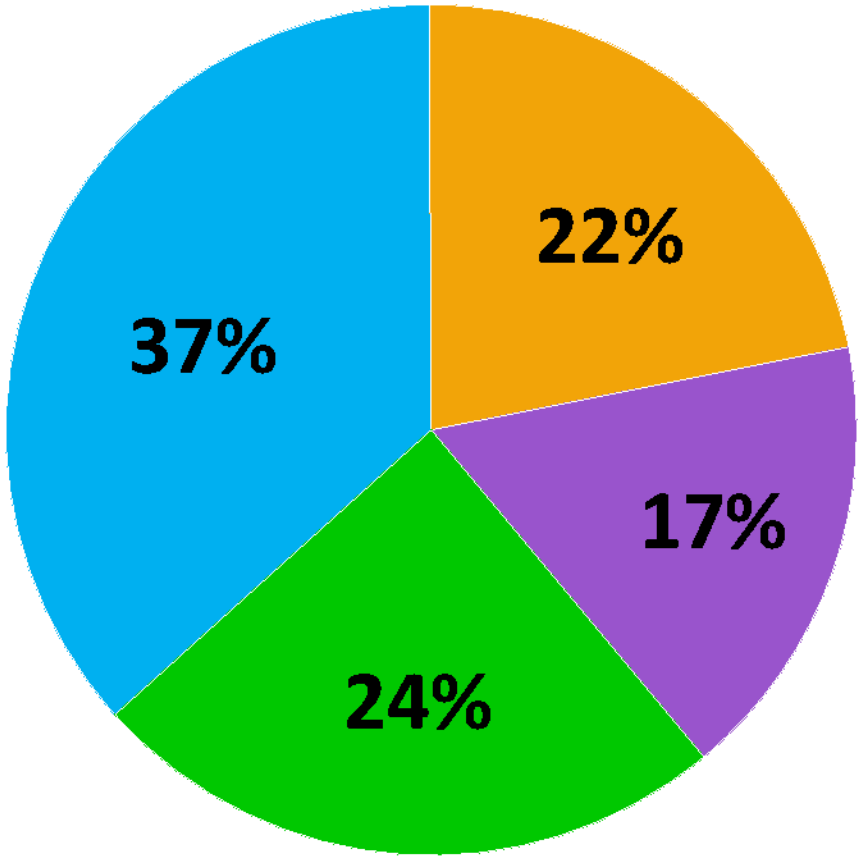
Training Gaps Among Regulators



- Advanced Technologies/ Industry Innovations
- Knowledge Gap
- Practical Experience Gap
- Other

* 46 submitted responses

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Improvements Among Regulators

- For 2021, 85% of respondents believe regulators are up to speed with industry technologies.
  - 54 responses
- For 2019, 75% of respondents believe regulators are up to speed with industry technologies.
  - 94 responses
- Increase possibly tied to trainings IOGCC has been doing.
- There are still areas for additional training opportunities.

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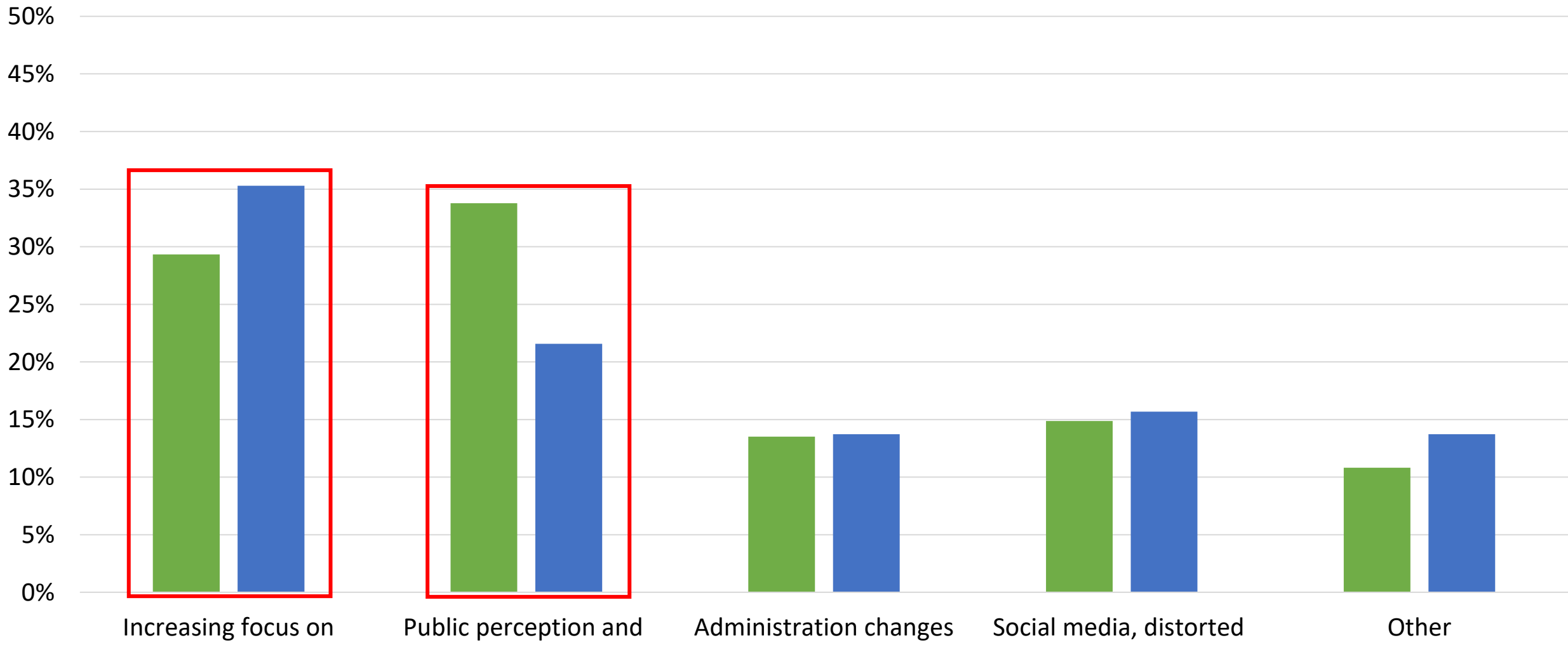
What Is Impacting Regulators Now



* 2019 - 74 submitted responses
* 2021 - 51 submitted responses

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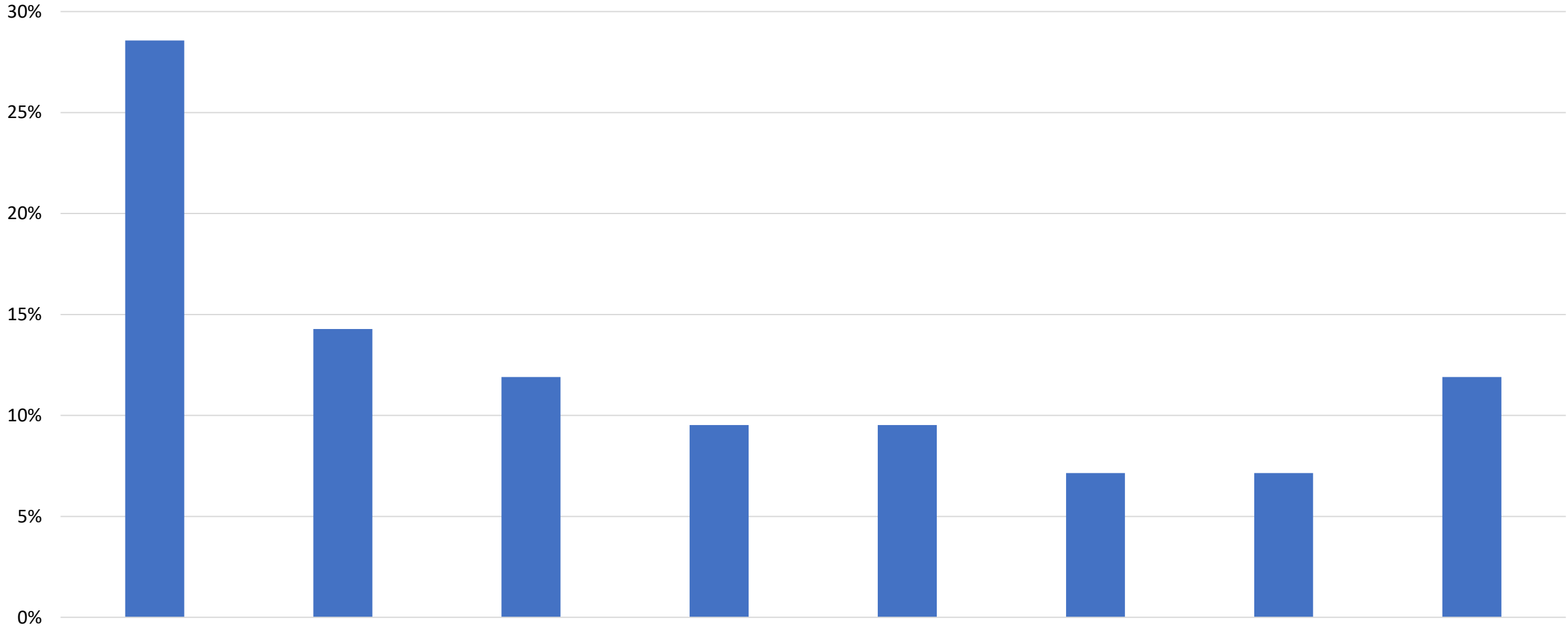
What Will Impact Regulators in 5 Years



NM-EMNRD-22-0512-B-000184

* 49 submitted responses

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IOGCC Mission and Vision

Mission

IOGCC is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment.

Vision

IOGCC will be viewed as the authority on domestic oil and gas issues. The programming and services of the Commission will be developed around emerging issues, so that the IOGCC is a leader and a driver of national oil and gas policy.

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IOGCC Mission Statement

- Does the mission statement continue to represent our organization and efforts?
  - 49 respondents answered this question.
  - 78% answered yes.
  - A few suggested additions that may be addressed in goals and objectives.
  - Responses printed on handout.

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Development of Strategic Plan

- Is there anything else IOGCC should consider in developing a strategic plan?
  - 32 respondents answered this question.
  - Responses printed on handout.

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Thank you!

Questions?

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STRATEGIC PLANNING

Organizations with a good strategic plan are more successful. The plan provides a roadmap for leadership and staff. They work as a team to achieve consistent goals over several years. The *Strategic Planning* guide describes the preparations for planning, developing the plan, and implementation.

Why Have a Strategic Plan

1. **Roadmap** – The plan identifies the "destination" and guides the board of directors, committees and staff.
2. **Continuity/Sustainability** – Without a plan the organization is susceptible to mission drift and simply being reactionary.
3. **Prioritization** – Planning allows leaders to identify the important issues and programs; and to drop programs that are ineffective or irrelevant.
4. **Allocation of Resources** - Planning is the disciplined allocation of resources (time and money).
5. **Assignment and Timelines** – Good plans include performance measures and assignments indicating how and when projects will be done.
6. **Awareness** – The plan should be compelling to members and stakeholders.

Terminology of Planning

Understanding of and consistent use of terminology is important to guide discussions.

Mission – The purpose for existence; crisp sentence or two – easy to articulate.

Vision – Statement of aspiration; how the organization will affect the future of the organization, community or stakeholders (members.)

Values – Guiding principles of the leadership and staff.

Goals – The core competencies to which resources will be allocated. In setting goals, consider the acronym SMART - Specific, Measurable, Attainable, Relevant and Timely.

Strategies – Approaches and programs for achieving the mission and goals.

Tactics – Assignments, accountability and deadlines.

Performance Measures – Methods to measure progress.

Business Plan – An annual detailed program of work linked to the strategic plan.



Trends in Planning

- Set just 3 to 7 goals; allowing the organization to focus efforts on its core competencies.
- A mission statement that is visionary can replace the need for separate mission and vision statements.
- Promote the plan to members and prospects by converting it to a brochure or posting on the website.
- Report on the plan's progress by reviewing at board meetings and at least annually.

Span of the Plan

3- 5 Years

Most plans span three years. Planning annually tends to cause short-term thinking. Plans exceeding 5 years may be unrealistic in rapidly evolving environments.

Planning Retreat

With preparation, focus and the right set up a strategic plan can be developed in a day or two. Because discussions will be intense, it is best to do the plan over two consecutive days --- giving everyone a relaxing break after the first day.

The room should be set up in an open-U, with a flip chart at the front. Ensure that seating is comfortable, and food and amenities are nearby. Natural light is preferred to a room without windows.

Brand Statements

The mission, as well as vision and values, serve as a "promise" to the community. The statements help to distinguish the organization. While the vision

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and values are optional, the mission or purpose statement is required.

50,000 Foot Perspective

Encourage discussions to remain at the 50,000 foot level. There is tendency for discussions to drop to 25,000' (committee work) or lower, say 10,000' (staff work and tactics.) Leave the tactics to committees and staff. Stay out of the "weeds" at the planning retreat.

Facilitation

An experienced facilitator involves everybody in discussions, while focusing on completing the planning in the time allotted. There are *disadvantages* to having the staff or a board member facilitate. A plan's success may be linked to the right facilitator. Provide the facilitator with all the information they need to understand the organization.

Environmental Scan

Planning is not done in a vacuum; there are environmental influences. Directors should be qualified to recognize trends and community needs. Often the discussion is built around the acronym SWOT – Strengths, Weaknesses, Opportunities and Threats.

Surveys and focus groups may be conducted to gain valuable stakeholder input.

Strategy or Tactic

What's the Difference?

Strategies are innovative approaches to achieving the goals. They often identified as programs, issues, priorities, benefits, events and services.

Tactics are a lower level discussion – how will it occur, who will do it? Tactics are the responsibility of committees, staff and consultants. Tactics are usually set *after* strategic planning.

Precautions

Plans fail for many reasons:

- Too many people at the planning retreat; 15 to 20 are ideal for meaningful discussions.
- Too many goals – simply a list of what the board wants to see finished. Successful organizations focus on just 3 to 7 goals.
- Short term thinking; it's not a strategic discussion if leaders cannot think beyond their terms of office.
- An inexperienced facilitator or one with a personal agenda.
- No final report formatted as a strategic plan.
- Meetings over several months rather than completing the plan in one sitting.
- Distractions during the planning meeting.
- The wrong people at the planning table; it is a responsibility of the board of directors who should be visionary leaders.
- Failure to include performance measures and timelines.
- Leaders and staff ignore the plan and go back to doing things as before

Implementation *after* the Retreat

There will be a temptation to put aside the new plan and return to daily tasks. Focus on implementation and integration into the culture of the organization.

- Appoint a "Plan Champion" to monitor and report on progress.
- Align every committee under the goal areas.
- Add performance measures and deadlines.
- Promote the plan to members and stakeholders.
- Create a yearly program of work for committees aligned with the strategic plan.
- Promote the plan at meetings and on the website.
- Include the plan on the board agenda.
- Conduct an annual review of progress.
- Share with the staff to get their buy-in of the board's strategic direction.

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Q16 Is there anything else IOGCC should consider in developing a strategic plan?

Answered: 32 Skipped: 26

#	RESPONSES	DATE
1	Role as the US moves toward electrification	8/27/2021 2:30 PM
2	No	8/25/2021 2:17 PM
3	Can't think of anything else	8/25/2021 1:30 PM
4	Better projection into what's driving the idle wells in the idle well report	8/25/2021 10:11 AM
5	Continued funding of regulatory programs	8/25/2021 9:34 AM
6	setting priorities for conflicting mineral development	8/25/2021 8:58 AM
7	Climate change mitigation	8/24/2021 6:47 PM
8	Think broadly and be rooted solidly in situational awareness regarding key issues.	8/24/2021 4:24 PM
9	Public communication strategy and training	8/24/2021 4:20 PM
10	How to manage increasingly divergent views between states on energy issues	8/24/2021 3:59 PM
11	Hydrogen	8/24/2021 3:25 PM
12	Local, State and National public officials/elected officials education	8/24/2021 1:19 PM
13	Interstate coordination of water	8/24/2021 1:07 PM
14	Look at climate related issues linked to the O&G sector from a global perspective while still maintaining a good understanding of local and site-specific and address them appropriately.	8/24/2021 1:02 PM
15	Diversity and Inclusion	8/20/2021 6:29 PM
16	The relationship between energy independence and national security. Better communicating with the general public the benefits of the domestic production of fossil fuels.	8/11/2021 3:07 PM
17	Focus on being apolitical organization where possible. Avoidance of language or policies that appear to appease political pressures. Environmental = Left of center; Oil and Gas = Right of center. Divisive.	8/10/2021 3:59 PM
18	Other well types drilled using the technology of the oil and gas industry that will become more prevalent with political pressure against the oil and gas industry such as deep geothermal and energy storage wells.	8/10/2021 11:00 AM
19	No changes.	8/9/2021 11:42 AM
20	Reviewing the Charter to make certain the direction IOGCC plans to go is consistent with why IOGCC was formed.	8/9/2021 11:32 AM
21	IOGCC needs to make sure that its members understand that the jump from fossil fuels to renewables cannot happen until battery efficiency improves to twice its current level. Also the products that oil and gas produces goes beyond energy. Therefore the industry should focus the positives.	8/9/2021 10:44 AM
22	The mission of the IOGCC and how not to get distracted by side issues.	8/9/2021 10:15 AM
23	A stronger and more vocal voice on energy policy.	8/6/2021 4:49 PM
24	The organization must continue to uphold its traditional guiding principles, but also establish a broader, more holistic view of evolving with a society that has recently had to address the challenges of pandemic, diversity and inclusion, and political polarization.	8/4/2021 5:30 PM

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25	changing legal landscape for regulators, regulation of infrastructure that may be vulnerable to climate/weather events, trend for residential/comm development near production and issues related to interactions with the public	8/2/2021 1:16 PM
26	land loss	7/30/2021 8:10 PM
27	Continuity of sufficient funding to maintain current levels of support if production revenue declines.	7/28/2021 12:23 PM
28	Above all, the preservation of the original and current statutory mission statement in every respect! Marland was correct about the purpose of the IOGCC at its inception and that vision is still correct now.	7/27/2021 5:47 PM
29	PROMOTION OF THE INDUSTRY	7/27/2021 5:36 PM
30	Q 14 says it all. Do that, resist the pressure to become merely another political tool. Embrace the future! Our charter says to do that, not live in the past or do the ostrich thing.	7/27/2021 4:31 PM
31	unknown	7/27/2021 3:54 PM
32	Separation of the compact from industry needs to be better defined.	7/27/2021 3:46 PM

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Q17 The IOGCC mission statement is: "The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment."Does this mission statement continue to represent our organization and efforts? Please explain.

Answered: 49 Skipped: 9

#	RESPONSES	DATE
1	Yes	9/2/2021 5:45 PM
2	I think so, although the number of industries consuming OG may shrink in the future, so targeting specific supply chains might be called for.	8/27/2021 2:30 PM
3	Yes	8/25/2021 2:17 PM
4	Yes	8/25/2021 1:30 PM
5	Yes, but there is a push to eliminate the “efficient recovery of domestic oil and gas” and replace with “eliminate recovery of domestic oil and gas”. Iogcc needs to address that directly in all work by sub committee s	8/25/2021 10:11 AM
6	Yes	8/25/2021 9:34 AM
7	In Saskatchewan's regulatory environment, emerging minerals is now being reflected in our strategic plans i.e. more focus on mineral development than just oil and gas.	8/25/2021 8:58 AM
8	I think it is fine but I would add CCUS and other initiatives to mitigate climate change	8/24/2021 6:47 PM
9	I definitely think it has represented the organization and its efforts. The question to me is given the response to the survey and the stated priorities of governments, will it continue to. I think in the near future it will be representative but beyond that will need to be adjusted.	8/24/2021 4:24 PM
10	Yes IOGCC members are Governors, their mission is well described above, and is more than regulation	8/24/2021 4:20 PM
11	Might be worth checking on the mission statements of each O&G state agencies, but I bet you'd get to something like the current IOGCC mission statement. Maybe you can soften the current statement by subbing "supports" rather than "champions"	8/24/2021 3:59 PM
12	No. It should reference that the oil and gas resources be sustainably developed.	8/24/2021 3:25 PM
13	Yes	8/24/2021 2:43 PM
14	Yes	8/24/2021 1:20 PM
15	yes from what I have witnessed	8/24/2021 1:19 PM
16	Yes. Its beauty is its simplicity.	8/24/2021 1:13 PM
17	Yes	8/24/2021 1:07 PM
18	Include in the Mission Statement, that IOGCC will strive to ensure that diverse viewpoints on climate related issues will also be heard based on sound engineering and scientific principles.	8/24/2021 1:02 PM
19	Yes; the IOGCC does excellent work to protect our resources and the public while also fostering methods to prevent waste of our domestic oil and gas.	8/23/2021 8:31 PM
20	Yes	8/20/2021 6:29 PM
21	Yes	8/19/2021 1:41 PM

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22	Still solid. No changes needed.	8/19/2021 1:05 PM
23	Yes, I believe it does. If I were to add anything, it would be to ensure the future of the industry by protecting states' rights and fighting back against measures that seek to "keep it in the ground."	8/11/2021 3:07 PM
24	Yes.	8/10/2021 3:59 PM
25	We need to add information to states and citizens	8/10/2021 2:51 PM
26	Yes	8/10/2021 11:43 AM
27	Yes. Oil and gas resources can continue to be recovered and used while still protecting health, safety and the environment.	8/10/2021 11:00 AM
28	Yes - while the political climate may be ever-changing, IOGCC has stayed consistent in their goals and missions.	8/10/2021 8:50 AM
29	Yes. I believe the IOGCC's mission statement represents the organization and efforts. Your continued support to assist the states is invaluable.	8/9/2021 4:33 PM
30	It might need a mention to indigenous and community involvement/education/training	8/9/2021 1:50 PM
31	Yes	8/9/2021 12:14 PM
32	Yes, I feel that the mission statement represents the IOGCC correctly.	8/9/2021 11:42 AM
33	It should but it may not be possible going forward.	8/9/2021 11:32 AM
34	yes	8/9/2021 10:44 AM
35	Yes	8/9/2021 10:30 AM
36	Yes	8/9/2021 10:15 AM
37	Add being an advocate for federal and state policies that supports these resources being critical for a healthy and prosperous world.	8/6/2021 4:49 PM
38	The mission seems to slant toward the economic value of oil and gas resources without an explanation of what "conservation" really means. It should say more about ensuring abundant and affordable supplies of energy resources to the American public (maybe including renewable resources) without harm to people or environment.	8/4/2021 5:30 PM
39	I think that the focus should be on improving regulation for the protection of health, safety and the environment. Whether or not a state considers itself a champion for conservation and efficient recovery of domestic oil and gas varies among member states and changes with different administrations. Fair, consistent and effective regulation remains valuable to the member states regardless of whether or not the current administration is promoting the industry.	8/2/2021 1:16 PM
40	Yes it does. The challenge is to implement policies that carry out the mission.	7/30/2021 8:10 PM
41	it doesnt include the collaboration across regulators, which its the most valuable aspect of iogcc for me.	7/28/2021 2:04 PM
42	Yes, but maybe consider adding, "...through a robust member exchange of best management practices." or something like this to reflect the knowledge sharing that is occurring and beneficial to all its members.	7/28/2021 12:23 PM
43	This mission statement is spot on, inclusive and to the point. In any political environment, it balances conservation and production goals in an apolitical way that preserves the rule of law. The primary purpose of our regulatory efforts is the protection of the environment by encouraging the responsible development of the nation's valuable oil and gas resources. Any other mission would jeopardize the energy security and standard of life of our nation. If this mission statement is watered down or politicized, the IOGCC will lose all viability and credibility and it's purpose as an organization will have been destroyed-- i.e. it's toast! Strong opinion to follow at a later time.	7/27/2021 5:47 PM
44	Yes.	7/27/2021 5:39 PM
45	It does mine. I question whether it represents the IOGCC's decided shift to WOKEism & the	7/27/2021 5:36 PM

AMERICAN OVERSIGHT

	shuttering of the upstream O&G industry.	
46	Yes	7/27/2021 4:53 PM
47	Not at all. Witness the 4 resolutions proposed by the Texas RRC hyper-partisan chair. Also the overwhelming vote in favor. Is there no way to steer the org through these cultists, and show some leadership without the vitriol and buzzwords? Facts matter, folks, and there were none in those resolutions. The text was extreme, hyperbolic, and filled with inaccuracies that could easily have been dispelled by anyone willing to think clearly. IOGCC should fulfill its mission and charter and avoid this slop, and take back its real role as a science-driven leader again. Oh- let's hope these folks don't institutionalize these fantasies in any new strategic plan or related official IOGCC documents. I'll bet they continue to think that covid-19 is still a hoax and a plot by the (fill in your favorite enemy-of-the-week). I'm not naive- I've had my shots and so has my family.	7/27/2021 4:31 PM
48	Yes	7/27/2021 4:24 PM
49	Yes	7/27/2021 3:54 PM

AMERICAN OVERSIGHT

INTERSTATE Oil & Gas COMPACT COMMISSION

MEMORANDUM

TO: Official Representatives of IOGCC Member States, Associate Member States, and Affiliates

FROM: Lori Wrotenbery, Executive Director LW

RE: Invitation to Strategic Planning Session at the 2021 Annual Conference in Santa Fe, New Mexico, November 7-9, 2021

DATE: October 22, 2021

You are invited to attend a strategic planning session to be held during the Annual Conference in Santa Fe. Participation in this session will be limited to official representatives or their designated alternates.

The strategic planning session will be conducted in two parts at our conference hotel, the Inn at Loretto. We will meet on Sunday, November 7th from 3:00-5:30 PM MT in the Zuni Room. After breaking for the opening reception, we will reconvene the next morning on Monday, November 8th from 7:30-9:00 AM MT in the Tesuque Room.

If you will not be able to travel to Santa Fe but wish to attend remotely, please let me know. We will send you an invitation to join via Zoom.

Bob Harris, Certified Association Executive, will facilitate the discussion and help us complete our strategic plan. Bob is renowned for the work he does with the boards of nonprofits and other organizations, and we are grateful to have his help.

Please review the attached materials in preparation for the strategic planning session:

- Bob's two-pager on strategic planning, which was previously distributed at the Special Meeting in Colorado Springs,
- an updated version of the presentation given in Colorado Springs on the results of our member survey, and
- a discussion draft of a strategic plan developed with input from the Steering Committee. Please note that we offer the draft strategic plan to stimulate discussion in Santa Fe. It has not been approved at any level of the organization.

Let me know if you have any questions. We are looking forward to seeing everyone in Santa Fe.

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Mission: The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety, and the environment.

GOAL AREAS – CORE COMPETENCIES			
STEWARDSHIP Fostering wise stewardship of domestic oil and natural gas resources.	**ENVIRONMENTAL PROTECTION** Protecting the environment while supporting responsible production.	**ENGAGEMENT** Engaging with members, the public, and policymakers through training, knowledge sharing, listening, and advocacy.	**INNOVATION** Meeting challenges and seizing opportunities through innovation.
A. Recommend measures for **preventing physical waste** and promoting the maximum ultimate recovery of oil and gas. B. Foster understanding of the contribution of oil and gas resources to the **economy and national security**. C. Evaluate the contribution of oil and gas resources and technology as essential components of the energy mix in a **carbon neutral future**. D.	A. Assist states to identify, evaluate, and implement processes for **continuous improvement** of programs and services that protect the environment. B. Coordinate nationwide efforts to **mitigate environmental risks**. C. Support the **lead role of the states** in ensuring the environmentally responsible development of oil and gas resources. D.	A. Provide **opportunities for sharing** information, viewpoints, and best practices. B. **Communicate with the public** about the activities of the IOGCC and its member states. C. Convey to Congress and appropriate federal agencies the policies and positions adopted by IOGCC through the **resolutions** process. D. Support **adequate funding** of state programs and services. E.	A. Drive the future of oil and gas by being a leader and convener seeking **innovative solutions**. B. Promote **research and development** of technologies for oil and gas recovery and environmental protection. C. Identify and address **emerging issues**. D.

DRAFT

AMERICAN OVERSIGHT

Subject: [EXTERNAL] FW: IOGCC Steering Committee Meeting
Location: Zoom

Start: Wednesday, September 01, 2021 4:00 PM EDT
End: Wednesday, September 01, 2021 5:00 PM EDT
Show Time As: Busy

Recurrence: Monthly

Meeting Status: Not yet responded

Organizer: Amy Childers
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Wayne Christian <wayne.christian@rrc.texas.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Charlie Burd <cburd@gowv.com>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Travis McCormick <travis@mccormicktx.com>
Attachment(s): "image001.jpg"

This sender might be impersonating a domain that's associated with your organization.Learn why this could be a risk

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne,

I am not too familiar with the Steering Committee meetings, but it looks like Amy just has these meetings as a calendar placeholder. She must send the meeting links closer to each meeting. Hopefully, this email will allow you to add the Steering Committee meetings to your calendar but let me know if it does not.

Thanks,
Kaitlyn

-----Original Appointment-----
From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Wednesday, August 4, 2021 5:11 PM
To: Amy Childers; Wayne Christian; Kenneth Wagner; Adam Wygant; Charlie Burd; Adrienne Sandoval; Jeremy Price; John Baza; Larry Bengal; Lynn Helms; Lori Wrotenbery
Cc: Kaitlyn Smith; Travis McCormick
Subject: IOGCC Steering Committee Meeting
When: Occurs the first Wednesday of every 1 month(s) effective 9/1/2021 until 11/3/2021 from 3:00 PM to 4:00 PM (UTC-06:00) Central Time (US & Canada).
Where: Zoom

Appointment Recurrence Exception
Subject: IOGCC Steering Committee Meeting

Start: Wednesday, September 08, 2021 4:00 PM EDT
End: Wednesday, September 08, 2021 5:00 PM EDT

Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Wayne Christian <wayne.christian@rrc.texas.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Charlie Burd <cburd@gowv.com>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Travis McCormick <travis@mccormicktx.com>
Attachment(s): "image001.jpg"

This sender might be impersonating a domain that's associated with your organization.Learn why this could be a risk

This Meeting has been postponed one week at the Chair's request. Please let me know if this new date will not work for you.

Thank you!

You are invited to a Zoom webinar.

When: Sep 8, 2021 03:00 PM Central Time (US and Canada)

Topic: IOGCC Steering Committee

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Please click the link below to join the webinar:

https://us02web.zoom.us/j/82573862398

Or One tap mobile :

US: +16699009128,,82573862398# or +12532158782,,82573862398#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 825 7386 2398

International numbers available: https://us02web.zoom.us/u/kbZfiZcQGf

Amy M. Childers

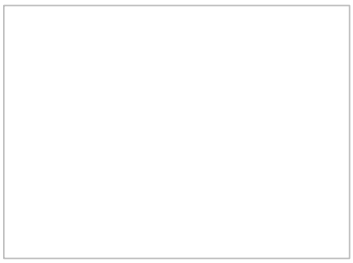
Executive Project Manager

Interstate Oil and Gas Compact Commission

Business phone (405) 522-8384

Cell phone (405) 642-8074

amy.childers@iogcc.state.ok.us



Appointment Recurrence Exception
Subject: [EXTERNAL] IOGCC Steering Committee Meeting

Start: Wednesday, November 03, 2021 4:00 PM EDT
End: Wednesday, November 03, 2021 5:00 PM EDT

Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Wayne Christian <wayne.christian@rrc.texas.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Charlie Burd <cburd@gowv.com>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Travis McCormick <travis@mccormicktx.com>

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting

https://us02web.zoom.us/j/82949270175

Meeting ID: 829 4927 0175

One tap mobile

+12532158782,,82949270175# US (Tacoma)

+13462487799,,82949270175# US (Houston)

Dial by your location

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+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

Meeting ID: 829 4927 0175

Find your local number: https://us02web.zoom.us/u/kvp42hHMg

AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

From: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>
Sent: Thursday, December 09, 2021 5:12 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Internship follow-up

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello Director Sandoval & Deputy Director Polak,

Circling back on the discussion related to internships. In our last meeting we talked about next steps being getting back together to brainstorm thoughts on how to best design this initiative and protect us all from any perception issues. I know we are getting close to the holidays, so wondered if we can put something on calendars for early January. I will be around next week if that is a better option, but out of town through the new year after 12/16.

If you send me a couple of choice dates and times I will make one work on my end.

Looking forward to progressing the internship idea.

Thanks,

Louis C. Salazar – Director, External Affairs
ConocoPhillips Company
Cell (505) 320-1911

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Internships
Location: Microsoft Teams Meeting

Start: Wednesday, March 02, 2022 10:00 AM EST
End: Wednesday, March 02, 2022 11:00 AM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Salazar, Louis C
Required Attendees: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Optional Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>

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Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 281-810-1619,,497383078# United States, Houston
Phone Conference ID: 497 383 078#
Find a local number | Reset PIN

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AMERICAN OVERSIGHT

Subject: [EXTERNAL] Internships
Location: Microsoft Teams Meeting

Start: Friday, January 28, 2022 3:00 PM EST
End: Friday, January 28, 2022 4:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Salazar, Louis C
Required Attendees: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Optional Attendees: Matt Lepore <matt.lepore@insightenergylaw.com>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Please feel free to invite Deputy Director Polak or anyone else you deem as necessary.

Louie

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 281-810-1619,,426951020# United States, Houston
Phone Conference ID: 426 951 020#
Find a local number | Reset PIN

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AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Thursday, November 04, 2021 5:21 PM EDT
To: Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; mrogers@ogb.state.al.us <mrogers@ogb.state.al.us>; Sara Longan <sara.longan@alaska.gov>; Frank Thorwald <FrankThorwald@thorwaldgroup.com>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Shane Khoury <shane.khoury@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Jeff Robbins <jeff.robbins@state.co.us>; Mick Thomas <mthomas@idl.idaho.gov>; jthum@idl.idaho.gov <jthum@idl.idaho.gov>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Susan Duffy <s.duffy@kcc.ks.gov>; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; Adam W. Wygant <wyganta@michigan.gov>; Tom Richmond <tomrichmondmt@gmail.com>; tboesiger@nogcc.ne.gov <tboesiger@nogcc.ne.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; gbloom <gbloom@slo.state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn Helms <lhelms@nd.gov>; bhicks@nd.gov <bhicks@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Andrew.Adgate@dnr.ohio.gov <Andrew.Adgate@dnr.ohio.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Brad Ice <Brad.Ice@occ.ok.gov>; Scott R. Perry <scperry@pa.gov>; Wei Wang <Wei.Wang@rrc.texas.gov>; Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; Clay Woodul <Clay.Woodul@rrc.texas.gov>; John R. Baza <johnbaza@utah.gov>; hsousa@agutah.gov <hsousa@agutah.gov>
CC: Tryon, Steve G <stephen_tryon@ios.doi.gov>; Steven Wells <steven_wells@blm.gov>; Stratton Edwards <sedwards@capitolhillcg.com>; Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: [EXTERNAL] INVITATION ONLY Breakfast with Steve Tryon, DOI, Tuesday, November 9, 7:30-8:30 AM MT, Acoma Room, Inn at Loretto, Santa Fe, New Mexico

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear State Regulators,

Please make plans to attend an invitation-only breakfast on Tuesday, November 9th, at 7:30-8:30 AM MT. We have arranged to serve breakfast for this group in the Acoma Room at the Inn at Loretto.

Steve Tryon will be joining us to kick off what we hope will be a close working relationship between the Department of Interior (DOI) and the IOGCC member states on the plugging of orphan wells. Steve is Director of the Office of Environmental Policy and Compliance (OEPC) at DOI. DOI's Environmental Cleanup and Liability Management Team is part of his office.

We look forward to this opportunity to get to know Steve and learn more about the activities of his office.

See you in Santa Fe!

Safe travels,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Thursday, November 04, 2021 1:42 PM EDT
Subject: [EXTERNAL] IOGCC 2021 Annual Conference--Final Agenda
Attachment(s): "Final Agenda 2021 IOGCC Annual Conference.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear IOGCC Official and Associate Official Representatives,

The final agenda for Santa Fe is attached. So far we have 175 registrants for the conference, including a impressive lineup of speakers. We are excited about seeing everyone there.

For those who will not be traveling to Santa Fe, we have a couple of sessions that will be available to everyone via Zoom. The registration links for those sessions are here: **Council of Regulatory Officials** (November 7th at 12:30 pm MT) and **Business Session** (November 9th at 11:00 am MT). You will need to register for each session individually. Both sessions are free of charge for Zoom participants.

Please let us know if you have any questions.

Safe travels,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

AMERICAN OVERSIGHT

AGENDA
IOGCC ANNUAL CONFERENCE
Inn at Loretto
Santa Fe, New Mexico
Sunday, November 7 to Tuesday, November 9, 2021

Sunday, November 7th

11:00am-5:00pm **Registration—Living Room**

11:00am-12:00pm **Finance Committee** *(Member Brunch)*—**Rio Chama Prime Steakhouse**

12:30pm-2:30pm **Council of Regulatory Officials—Zuni Ballroom**
Opening Comments
Dave Hardie, Council Chair and Alberta Assoc. Official Representative
Welcoming Remarks
Adrienne Sandoval, New Mexico Official Representative
Status of Updated IOGCC Idle/Orphan Well Report
Hal Fitch, IOGCC Consultant
Roundtable Discussion

3:00pm-5:00pm **Council of Oil and Gas Attorneys—Chaco Ballroom**
Opening Comments
Ryan Hoffman, Council Chair and Kansas Assoc. Official Representative
Roundtable Discussion

3:00pm-5:30pm **Strategic Planning Session** *(Official Representatives Only)*—**Zuni Ballroom**

5:30pm-6:30pm **Opening Reception at Inn at Loretto—Tesuque Ballroom**

Monday, November 8th

7:30am—5:00pm **Registration—Living Room**

7:30am—8:30am **Breakfast—Chaco Ballroom**

7:30am—9:00am **Strategic Planning Session** *(Official Representatives Only)*—**Tesuque Ballroom**

8:30am—9:30am **Special Features—Zuni Ballroom**
Closed Loop Gas Capture
Patrick Padilla, Sara Mitchell, and Ryan Yarger, EOG Resources
Early Phase Execution for Carbon Sequestration Projects Today
Lloyd Hetrick and Ed Steele, Tetra Tech

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9:30am-12:00pm **General Session—Zuni Ballroom**

Wayne Christian, Chairman, Railroad Commission of Texas, IOGCC Vice-Chair

Todd Leahy, Deputy Secretary of Energy, Minerals and Natural Resources, New Mexico

Kenneth Wagner, Secretary of Energy and Environment, Oklahoma, IOGCC 2nd Vice-Chair

The Honorable J. Kevin Stitt, Governor of Oklahoma, IOGCC Chair

Micah Chambers, Legislative Director, Senator Kevin Cramer | North Dakota

David Gray, Acting Regional Administrator, Region 6, Environmental Protection Agency

Steve Tryon, Director, Office of Environmental Policy and Compliance, Dept of Interior

Chair's Stewardship Awards

12:00pm-1:30pm **Lunch** *(On Your Own)*

12:00pm-1:15pm **Steering Committee** *(Member Lunch)*—**Penthouse Suite**

1:30pm-2:30pm **Resolutions Committee—Acoma Room**

1:30pm-2:30pm **Energy Resources, Research and Technology Committee—Zuni Ballroom**

Opening Remarks
Lanny Schoeling, Chair
Adam Peltz, Vice-Chair

Update on the ERRT Portal
Kaitlyn Smith, IOGCC Technical Coordinator

Summary of 2020-2021 CCUS Webinars and Workshops for Regulators
Dr. Lanny Schoeling, VP Oilfield Innovation, NeoTek Energy

Remediation of Orphan Well Sites: Success is in the Science
Dr. Kerry Sublette, Professor of Chemical Engineering, University of Tulsa

2:45pm-3:45pm **Environment and Safety Committee—Zuni Ballroom**

Opening Remarks
Leslie Savage, Chair
Robyn Strickland, Vice-Chair

An EPA Regulatory Update—The State of Play
Dr. Taimur Shaikh, Senior Policy Advisor—Energy, EPA Region 6

A *Preview of the Updated IOGCC TENORM Guidance Document*
Scott Winters, IOGCC Consultant

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4:00pm-5:00pm **Legal and Regulatory Affairs Committee—Zuni Ballroom**

Opening Remarks
Reice Haase, Chair
Kimberly Wurtz, Vice-Chair

Update on Litigation over Federal Executive Orders
Brent Mead, Montana Assistant Solicitor General

Natural Gas Production and Grid Reliability
Brian Kroshus, North Dakota Public Service Commissioner

Recent Developments in State Primacy
Kimberly Wurtz, Attorney, Wurtz & Associates

5:30pm-7:00pm **Networking Reception—Luminaria Restaurant**

Tuesday, November 9th

7:30am-11:00am **Registration—Living Room**

7:30am-8:30am **Breakfast—Chaco Ballroom**

8:30am-9:30am **Public, Coastal and Tribal Lands Committee—Tesuque Ballroom**

Opening Remarks
Sara Longan, Chair
Virginia Hullinger, Vice-Chair

Oil and Gas Update from the New Mexico State Land Office
Greg Bloom, Assistant Commissioner for Mineral Resources

Update from the BLM New Mexico State Office
Steve Wells, Associate State Director, BLM

Public Lands and Communities
Sara Longan, Deputy Commissioner, Alaska Dept of Natural Resources

9:45am-10:45am **Public Outreach Committee—Tesuque Ballroom**

Opening Remarks
Travis McCormick, Chair
Katie Haarsager, Vice-Chair

The February 2021 ERCOT Grid Failure and Lessons
Gregg Goodnight, Retired Engineer, TRCS and CO2 Coalition

Advancements in CCUS
Erik Oswald, Vice President, ExxonMobil Low Carbon Solutions

11:00am-12:30pm **Business Session—Zuni Ballroom**

12:30pm **Adjourn**

AMERICAN OVERSIGHT

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Friday, May 13, 2022 4:37 PM EDT
CC: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>; Dianne Jones <dianne.jones@iogcc.state.ok.us>
Subject: [EXTERNAL] IOGCC Annual Business Meeting

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon Annual Business Meeting attendees,

We are looking forward to seeing everyone in just a few days!

The IOGCC Annual Business Meeting App is live on Guidebook. To access the app, clickhere or scan the QR code below.

The app allows attendees to view the meeting schedule, IOGCC officers, meeting sponsors, and more.

Please email Dianne.Jones@iogcc.state.ok.us if you have any trouble accessing the app.

Safe travels to Oklahoma City!

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



AMERICAN OVERSIGHT

From: Zoom <no-reply@zoom.us>
Sent: Friday, January 07, 2022 5:30 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices Confirmation from IOGCC

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Adrienne Sandoval,

Thank you for registering for "IOGCC Roundtable on Plugging Contract Practices". Please save this email or add this event to your calendar below. You will need this link to join. Please do not share or forward this link.

Please submit any questions to: amy.childers@iogcc.state.ok.us

Date Time: Jan 26, 2022 11:30 AM Central Time (US and Canada)

Join from a PC, Mac, iPad, iPhone or Android device:
Click Here to Join
Note: This link should not be shared with others; it is unique to you.
Add to Calendar Add to Google Calendar Add to Yahoo Calendar

Or iPhone one-tap :
US: +12532158782,,87689372415# or +13462487799,,87689372415#

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656
Webinar ID: 876 8937 2415
International numbers available: https://us02web.zoom.us/u/kesFmUQt5n

You can cancel your registration at any time.

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, January 07, 2022 4:35 PM EST
To: Adam Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; casey.hanell@dnr.wa.gov <casey.hanell@dnr.wa.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; danny.sorrells@rrc.texas.gov <danny.sorrells@rrc.texas.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Ines Piccinino <ines.piccinino@bcogc.ca>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Jeremy Price <Jeremy.price@alaska.gov>; Jess New <jnew@ogb.state.ms.us>; james.chapman@ncdenr.gov <james.chapman@ncdenr.gov>; Jim Halvorson <jhalvorson@mt.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; John Baza <johnbaza@utah.gov>; john.coates@floridadep.gov <john.coates@floridadep.gov>; Julie M. Murphy <julie.murphy@state.co.us>; kim.doane@novascotia.ca <kim.doane@novascotia.ca>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lucy Blocker <lucy.blocker@state.sd.us>; Lynn Helms <lhelms@nd.gov>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Martin Foy <martin.foy@aer.ca>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Molly Michaelson <molly.michaelson@maryland.gov>; Nick Tew <ntew@ogb.state.al.us>; pauline_dejong@gov.nt.ca <pauline_dejong@gov.nt.ca>; Phil Skorupa <phil.skorupa@dmme.virginia.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; schweire@dhec.sc.gov <schweire@dhec.sc.gov>; Roxanne Reiley <Roxanne.Reiley@tn.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan Hoffman <r.hoffman@kcc.ks.gov>; Scott Perry <scperry@pa.gov>; Weaver, Scott ER <scott.weaver@gov.sk.ca>; Stan Belieu <sbelieu@nogcc.ne.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; John Adams <johnny.adams@la.gov>; Dave Hardie <david.hardie@aer.ca>; Frank Thorwald <frankthorwald@thorwaldgroup.com>
CC: Bob Brinkmann <bob.brinkmann@oregon.gov>; Clay Woodul <clay.woodul@rrc.texas.gov>; Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; aaron.szapa@dnr.mo.gov <aaron.szapa@dnr.mo.gov>; Bart Kettle <bartkettle@utah.gov>; Andrews - DNR, David <david.andrews@state.co.us>; Kirk McQuillan <kmcquillan@ogb.state.al.us>; Brad Ice <Brad.Ice@occ.ok.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>
Subject: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices

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Dear Oil and Gas Directors,

Mark your calendars!!! The IOGCC' s Council of Regulatory Officials (CRO) will be conducting a 90-minute roundtable via Zoom on Wednesday, January 26, 2022, from 11:30am-1:00pm CST, to review effective practices for procuring plugging services and managing plugging contracts. In the newly released IOGCC report, *Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies 2021* , contracting procedures were identified as an area for further work. With the passage of the Infrastructure Investment and Jobs Act (IIJA), it is more important than ever to share these practices.

This roundtable will focus on states and provincial programs that have implemented approaches to procurement and contracting that have enabled them to engage plugging services more competitively and efficiently. If your state has a program that you would like to highlight and share as a short case study (five to seven minutes), please let me know by January 13, 2022, so that we can add you to the agenda.

You will need to register in advance to join this webinar, see link below.

When: Jan 26, 2022, 11:30 AM Central Time (US and Canada)
Topic: IOGCC Roundtable on Plugging Contract Practices

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_hXnXP-HhQcGowO0J3iFA1Q

Feel free to share this information with others in your organization, but each individual MUST register! We will not allow duplicate registrations.

After registering, you will receive a confirmation email containing the login information for joining the webinar.

If you have any questions do not hesitate to contact me.

Happy Friday!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>
Sent: Monday, January 10, 2022 2:29 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>
Subject: [EXTERNAL] Julius Fee #1 Well
Attachment(s): "Julius Roberson - Shut In Payment 2021.pdf"

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Adrienne,

The Julius Fee #1 well (API 30-015-32532) is a gas well developed pursuant to a lease agreement between Julius E. Roberson and V-F Petroleum, Inc. dated 9-4-2001 (the "Lease"), along with other lessors, and Marathon is a successor in interest of V-F Petroleum, et al. and is the current operator of the Julius Fee #1 well. As outlined below, this well has been shut-in due to various 3rd party gas takeaway issues that first arose in 2018 and then were later perpetuated in 2020. The well is capable of production in paying quantities and has been shut-in solely due to gas take away issues.

Under the terms and conditions of the Lease, when gas line issues arise Marathon has the contractual right to pay the lessors shut-in royalties to perpetuate the term of the Lease. These types of royalty payments are different from a typical royalty payment and are government under separate clauses contained within the lease agreement. Marathon has paid shut-in royalties to the lessors while working on the line issue. A sample shut-in royalty payment to Roberson Minerals LLC is attached for your reference If the lessors have an issue with Marathon's payment of shut-in royalties, that is an issue arising under the terms of the lease agreement itself and Marathon has been in regular communication with Lee Roberson about these payments and the status of the gas line.

At this time, Marathon believes that it has properly paid shut-in payments under the Lease in order to maintain our leasehold interest during the shut-in period. Additionally, Marathon is attempting to restore gas takeaway. The following outlines some of Marathon's efforts to-date:

- The Julius Fee was originally shut-in by Marathon after Enterprise advised us on or around 8-29-2018 that they would no long accept gas under our existing marketing agreement due to capacity constraints. In June of 2019, Enterprise advised Marathon that the capacity constraint had been resolved, that they would accept gas again. However, while working to restore the line, Marathon discovered that during the intervening period, while the well was shut it for market constraint, the meter that tied to Marathon's system and Enterprise's system had been removed. Marathon made many attempts to get Enterprise to install a new meter; however, they took a while for this work to be performed.
- Enterprise did come out and install a new meter, and once the new meter was installed Marathon promptly put the Julius Fee to sales. Unfortunately, the well flowed for just a few hours before our operations staff noticed that the Enterprise portion of the sales line had developed a hole and was leaking, so Marathon was forced to shut the well in again. We reached out to Enterprise about repairing their line and the indication was that it may not be economic to complete the line repair.
    - While there was production reported for this time period, the payment of regular royalties for this production is governed by the New Mexico Proceeds Payment Act, NMSA 1979 § 70-10-5, which allows operators to wait to remit royalties until the amount is more than $100, provided that the operator accrue interest at the statutory rate while waiting for the royalties to reach the $100 threshold.
- Marathon then reviewed various options to restore a gas take away line.
- Marathon received permission to survey on 7/28/2020 from an adjacent landowner at the Kelly 5 wellsite. It was determined that we could possibly reverse the flow of the Julius/Grizzly trunk line and build a short line at the Kelly 5 to tie into the sales meter. The line would be approximately 191' in length.
- My understanding is that the surface owners were Roy Don Kelly and his wife Katherine Kelly. Roy Don had passed away prior to this option needing to be explored. There was no Order Determining heirship for Roy Don Kelly in the probate proceedings and the case was Administratively Closed on 4/1/2020. Therefore, the surface of NW/4 NE/4 was tied up in the estate of Roy Don Kelly. Some potential heirs indicated that Mr. Kelly owned the estate as his sole and separate property; however, we could not locate any documents reflecting that indication and the default rule in New Mexico is that community property rules apply. This created ambiguity regarding who inherited that estate. It appeared that the heirs started probate proceedings and did not see the proceeding through. However, the Application in the Probate Proceedings set forth that Roy Don Kelly died intestate and his heirs are his wife, Katherine Alice Kelly, and son, Sterling Printes Kelly.
- In 2020, Katherine Alice Kelly was in a nursing home with some capacity issues and, to our understanding, she did not have a power of attorney that Marathon could find or obtain a copy of. After reaching out to the son, Sterling Printes Kelly, it was determined that Katherine Alice Kelly was UNABLE to sign anything because she as in a nursing home that was not allowing any visitors due to COVID and that she might not be of sound mind.
- Katherine passed away late 2020.
- Their son, and likely heir, Sterling Kelly then informed us (through his retained consultant/Landman) that he was going to have to open probate proceedings for his mother and re-open the probate for his father.
- In August of 2021, Sterling Kelly hired an attorney to begin working on the probate issues, which were then resolved in late 2021.
- Marathon would like to reach an amicable ROW agreement with Sterling Kelly, and may then need to work on a commingling application for the production depending on where the tie-in occurs. If Marathon is not able to reach an agreement with Sterling Kelly regarding the ROW, it will need to open a proceeding in District Court under New Mexico Gathering Line Acquisition Act.

As discussed, Marathon would be happy to participate in a meeting with NMOCD and Roberson Minerals LLC regarding this issue as we continue to work towards a reasonable resolution of the gas takeaway issues. Unfortunately, this issue has been somewhat complex due to a variety of factors outside of Marathon's control that we have been trying to work through.

AMERICAN OVERSIGHT

Please let me know if you have any questions. Alternatively, Lee Roberson or his attorney can always contact me directly.

Thanks!
Jennifer

AMERICAN OVERSIGHT

Check No	Check Date	Bank	Bank No	Vendor No	Marathon Oil Permian LLC 5555 San Felipe St Houston, TX 77056	Direct Inquiries to: ACCOUNTS PAYABLE DEPARTMENT Accounts Payable Phone: 866-323-1836	Hndlg
1003491	08/03/2021	NCBA	71068	1030255667			41

Invoice Number	Invoice Date	Document No	Remit Comment	Gross Amount	Discount	Invoice/Pay Amount
LS0502300001 -		9900042052	JULIUS E ROBERSON	40.00		40.00
			TOTAL:	40.00		40.00

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ACCOUNTS PAYABLE CHECK

Marathon Oil Permian LLC
5555 San Felipe St
Houston, TX 77056

56-389 / 412

CHECK DATE 8/3/2021

CHECK NUMBER 1003491

Forty and 00/100 Dollars

$40.00

PAY TO THE ORDER OF:

ROBERSON MINERALS LLC
PO BOX 6065
HOBBS, NM 88241

U.S. Funds

MATCH AMOUNT IN WORDS WITH NUMBERS

By: _____
Authorized Representative

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Nguyen, Vivian (MRO)

From: Mail Room <no-reply@endicia.com>
Sent: Tuesday, August 3, 2021 1:38 PM
To: Nguyen, Vivian (MRO)
Subject: [External] Mail Room has sent you a package

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Shipped To: ROBERSON MINERALS LLC
PO BOX 6065, HOBBS, NM 88241-6065

Mailing Date: 8/3/2021

Est. Delivery: 3 days

Service: Priority Mail (R)

Signature: Not Required

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Arrived at Post Office August 06, 2021, 06:23 AM, HOBBS, NM 88240

Departed USPS Regional Destination Facility August 05, 2021, 08:40 PM, LUBBOCK TX DISTRIBUTION CENTER

Arrived at USPS Regional Facility August 05, 2021, 05:52 PM, LUBBOCK TX DISTRIBUTION CENTER

Departed USPS Facility August 05, 2021, 11:10 AM, IRVING, TX 75059

Arrived at USPS Facility August 05, 2021, 07:43 AM, IRVING, TX 75059

Departed USPS Regional Facility August 05, 2021, 02:18 AM, NORTH HOUSTON TX DISTRIBUTION CENTER

Arrived at USPS Regional Origin Facility August 04, 2021, 09:21 PM, NORTH HOUSTON TX DISTRIBUTION CENTER

Accepted at USPS Origin Facility August 04, 2021, 08:06 PM, HOUSTON, TX 77056

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AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Thursday, May 12, 2022 4:14 PM EDT
To: Nick Tew <ntew@gsa.state.al.us>; Jeremy Price <jeremy.price@alaska.gov>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman (r.hoffman@kcc.ks.gov) <r.hoffman@kcc.ks.gov>; John Adams <johnny.adams@la.gov>; Molly Michaelson <molly.michaelson@maryland.gov>; Adam Wygant <wyganta@michigan.gov>; Jess New <jnew@ogb.state.ms.us>; Jim Halvorson <jhalvorson@mt.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; danny.sorrells@rrc.texas.gov <danny.sorrells@rrc.texas.gov>; John Baza <johnbaza@utah.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>; Skorupa, James <phil.skorupa@energy.virginia.gov>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Adam Peltz <apeltz@edf.org>; Brian Woodard <brian.woodard@chk.com>; Craig Smith <csmith@crowleyfleck.com>; Dan Yates <dyates@gwpc.org>; Dan Seamount <dan.seamount@alaska.gov>; David Blackmon <david.blackmon@dbenergyadvisors.com>; David Sykuta <illinois@api.org>; Doug Dashiell <ddashiell@scottdoug.com>; Eileen Dey <eileen.d.dey@gmail.com>; ericmahroum@gmail.com <ericmahroum@gmail.com>; Davis, Nathan <nathan.davis@nd.gov>; gbloom <gbloom@slo.state.nm.us>; Jeff Herman <Jherman@petrohunt.com>; Jennifer Hoffman <jennifer.hoffman@hhenergyco.com>; Kimberly Anne Doane <kim.doane@novascotia.ca>; Mariah Rodriguez <srodriguez@texaspolicy.com>; Marjorie McKeithen <mmckeithen@joneswalker.com>; Mollie Schall <mollie.schall@crestwoodlp.com>; Pary Shofner <paryshofner@yahoo.com>; Patrick Padilla <patrick_padilla@eogresources.com>; Reice Haase <rhaase@nd.gov>; Robert Harms <robert@harmsgroup.net>; Scott Anderson <sanderson@edf.org>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Tom Sellers <tnsatx@gmail.com>; Zac Weis <zaweis@marathonoil.com>
CC: Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; David Hardie (david.hardie@aer.ca) <david.hardie@aer.ca>; Ines Piccinino <ines.piccinino@bcogc.ca>; Virginia Hullinger <virginia.hullinger@occ.ok.gov>
Subject: [EXTERNAL] Mark your Calendars - Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello, Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials Members.

We are looking forward to seeing everyone at the 2022 Annual Business Meeting in Oklahoma City, Oklahoma! The members of the Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials (CRO) will be discussing important topics at the Annual Business Meeting on **Tuesday, May 17th from 8:30am-10:00am CT**.

The Council of Regulatory Officials will join the Public, Coastal, and Tribals Lands Committee at this meeting. After introductory remarks and a welcome to our new Vice-Chair, Ines Piccinino, the committee will then hold a roundtable to discuss intergovernmental coordination on orphan well plugging under the Infrastructure Investment and Jobs Act (IIJA). This roundtable will focus on the interface between IIJA plugging activities on private, state, federal and tribal lands.

There will be a virtual option available to members who are unable to attend in person. To register for the ZOOM session, click **here**.

If you have not registered for the Annual Business Meeting, please click**here** to register.

Click **here** to view the full agenda for the 2022 IOGCC Annual Business Meeting.

Thank you and see you all in Oklahoma City!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



AMERICAN OVERSIGHT

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Subject: [EXTERNAL] Meeting Dir. Sandoval and COP Team
Location: OCD Offices 1220 South St. Francis Drive

Start: Wednesday, November 10, 2021 2:00 PM EST
End: Wednesday, November 10, 2021 3:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Matt Lepore
Required Attendees: Matt Lepore <matt.lepore@insightenergylaw.com>; Matt Lepore <matt.lepore@insightenergylaw.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Kari Gibson (Kari.Gibson@conocophillips.com) <Kari.Gibson@conocophillips.com>

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Subject: [EXTERNAL] Meeting on Orphan Well Formula Grants - Continuation
Location: Zoom

Start: Friday, December 17, 2021 3:00 PM EST
End: Friday, December 17, 2021 4:00 PM EST
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Amy Childers
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; mrogers@ogb.state.al.us <mrogers@ogb.state.al.us>; Sara Longan <sara.longan@alaska.gov>; Frank Thorwald <FrankThorwald@thorwaldgroup.com>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Shane Khoury <shane.khoury@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Jeff Robbins <jeff.robbins@state.co.us>; Mick Thomas <mthomas@idl.idaho.gov>; jthum@idl.idaho.gov <jthum@idl.idaho.gov>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Susan Duffy <s.duffy@kcc.ks.gov>; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; Adam W. Wygant <wyganta@michigan.gov>; Tom Richmond <tomrichmondmt@gmail.com>; tboesiger@nogcc.ne.gov <tboesiger@nogcc.ne.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Bloom, Greg B. <gbloom@slo.state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn Helms <lhelms@nd.gov>; bhicks@nd.gov <bhicks@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Andrew.Adgate@dnr.ohio.gov <Andrew.Adgate@dnr.ohio.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Brad Ice <Brad.Ice@occ.ok.gov>; Scott R. Perry <scperry@pa.gov>; Wei Wang <Wei.Wang@rrc.texas.gov>; Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; Clay Woodul <Clay.Woodul@rrc.texas.gov>; John R. Baza <johnbaza@utah.gov>; hsousa@agutah.gov <hsousa@agutah.gov>; Jeremy Price <jeremy.price@alaska.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; John Adams (DNR) <Johnny.Adams@LA.GOV>; Molly Michaelson -MDE- <molly.michaelson@maryland.gov>; Jess New <Jnew@ogb.state.ms.us>; Stan <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Bob Brinkmann <bob.brinkmann@oregon.gov>; Roxanne Reiley <roxanne.reiley@tn.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Jim Halvorson <jhalvorson@mt.gov>; Cindy.Mulkey@dep.state.fl.us <Cindy.Mulkey@dep.state.fl.us>; Sarah.Lewis@oregon.gov <Sarah.Lewis@oregon.gov>; Mark.Williams@dnr.ga.gov <Mark.Williams@dnr.ga.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; james.chapman@ncdenr.gov <james.chapman@ncdenr.gov>; schweire@dhec.sc.gov <schweire@dhec.sc.gov>; casey.hanell@dnr.wa.gov <casey.hanell@dnr.wa.gov>
Optional Attendees: Stratton Edwards <sedwards@capitolhillcg.com>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; David Hardie <david.hardie@aer.ca>; hrfitch <hrfitch@hrfconsulting.net>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Stratton Edwards <sedwards@caphillgrp.com>; Suzannah Hafford <Suzannah.Hafford@occ.ok.gov>; Mike McGinnis <Mike.McGinnis@occ.ok.gov>; Nick Tew <ntew@gsa.state.al.us>; Blake Canfield <Blake.Canfield@LA.GOV>; Szapa, Aaron <Aaron.Szapa@dnr.mo.gov>; Slone, Gordon (EEC) <gordonr.slone@ky.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Lodder, William B <William_Lodder@ios.doi.gov>; Eric.Vendel@dnr.ohio.gov <Eric.Vendel@dnr.ohio.gov>; Denetta Brannon <Denetta.Brannon@occ.ok.gov>; hodan.marta@azdeq.gov <hodan.marta@azdeq.gov>; Roby Fulkerson <Roby.Fulkerson@LA.GOV>; Jason.Simmerman@dnr.ohio.gov <Jason.Simmerman@dnr.ohio.gov>; Bob Parker <b.parker@kcc.ks.gov>; Cavender, Gina (EEC) <Gina.Cavender@ky.gov>; Merritt, Mark L. <Mark.Merritt@Illinois.gov>; Calogero, Katherine M (DEC) <Katherine.Calogero@dec.ny.gov>; Wade, Gabriel, EMNRD <Gabriel.Wade@state.nm.us>; Murphy, Eileen (DEC) <eileen.murphy@dec.ny.gov>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Skov, Rian (DNR) <Rian.Skov@dnr.wa.gov>; Kimberly Dally <Kimberly.Dally@rrc.texas.gov>; Nwangene, Maureen@DOC <Maureen.Nwangene@conservation.ca.gov>; Zellou, Abdel@DOC <Abdel.Zellou@conservation.ca.gov>; Lussier, Nancy (DEC) <nancy.lussier@dec.ny.gov>; Brandt, Jennifer <jennbrandt@pa.gov>; Henderson, Rick (EGLE) <HENDERSONR2@michigan.gov>; Snow, Mark (EGLE) <SNOWM@michigan.gov>; Edward O'Brien <Edward.OBrien@la.gov>

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning,

Thank you for participating in the doodle poll. The meeting is scheduled for Friday, December 17th from 3:00-4:00pm CST. For this session we are requiring registration, the link is provided below.

You are invited to a Zoom webinar.

When: Dec 17, 2021 03:00 PM Central Time (US and Canada)
Topic: Meeting on Orphan Well Formula Grants - Continuation

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_4CFlic1-Q1qKKM7IhuG6Qw

Please be aware that after registering, you will receive a confirmation email containing information about joining the webinar. The confirmation email will come from ZOOM and not Amy Childers.

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If you have any questions or are having trouble getting registered do not hesitate to contact me directly.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>
Sent: Monday, March 28, 2022 2:51 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Meeting Request, Marathon Oil

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Hi Adrienne,

As I mentioned on Friday, I wanted to set a meeting with you and some folks on your team to meet our Permian Leadership Team. My colleagues will be coming down from Houston and we are meeting with several agencies. NMED and NMSLO had availability on 4/25 and 4/26. Would you have some times open for a 1 hour meeting on either of these dates? The purpose of the meeting is to discuss NMOCD priorities, initiatives, and goals. This gives Marathon's leadership information which helps us align with key issues that the NMOCD is focused on.

Thanks!
Jennifer

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Subject: [EXTERNAL] Meeting w/ Marathon Oil - Placeholder
Location: EMNRD's Office in Santa Fe

Start: Tuesday, April 26, 2022 3:00 PM EDT
End: Tuesday, April 26, 2022 4:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Bradfute, Jennifer (MRO)
Required Attendees: Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Optional Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Romero, RosaM, EMNRD <RosaM.Romero@state.nm.us>

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AMERICAN OVERSIGHT

From: Zoom <no-reply@zoom.us>
Sent: Monday, March 07, 2022 4:12 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Meeting with DOI on DRAFT initial grant guidance. Confirmation from IOGCC

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Hi Adrienne Sandoval,

Thank you for registering for "Meeting with DOI on DRAFT initial grant guidance.". Please save this email or add this event to your calendar below. You will need this link to join. Please do not share or forward this link.

Please submit any questions to: amy.childers@iogcc.state.ok.us

Date Time: Mar 9, 2022 12:00 PM Central Time (US and Canada)

Join from a PC, Mac, iPad, iPhone or Android device:
Click Here to Join
Note: This link should not be shared with others; it is unique to you.
Add to Calendar Add to Google Calendar Add to Yahoo Calendar

Or iPhone one-tap :
US: +16699009128,,89143880788# or +12532158782,,89143880788#

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 9128 or +1 253 215 8782 or +1 346 248 7799 or +1 646 558 8656 or +1 301 715 8592 or +1 312 626 6799
Webinar ID: 891 4388 0788
International numbers available: https://us02web.zoom.us/u/k2ZbWWWJr

You can cancel your registration at any time.

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From: Salazar, Louis C <Louis.C.Salazar@conocophillips.com>
Sent: Monday, March 14, 2022 7:49 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
CC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: [EXTERNAL] NM Tech Agreement
Attachment(s): "Gift Agreement F - New Mexico Tech (JPB Blackline 8Mar22)(10000073.1).pdf"

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Good evening,

Attached is the agreement headed for signature tomorrow. I anticipate it being signed by both parties in the next day or two, but wanted to share it as an inform as you requested. Please let me know if you have any questions.

Thanks,
Louie

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ConocoPhillips

GIFT AGREEMENT

CONOCOPHILLIPS COMPANY and THE NEW MEXICO TECH FOUNDATION ON BEHALF OF NEW MEXICO TECH

GIFT AGREEMENT ("Agreement") dated as of this ____ day of _____, 2022 between CONOCOPHILLIPS COMPANY, a Delaware corporation ("Donor" or "ConocoPhillips"), and the NEW MEXICO TECH FOUNDATION of Socorro, New Mexico, (the "Foundation"), a private non-profit tax-exempt corporation under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") on behalf of NEW MEXICO INSTITUTE OF MINING & TECHNOLOGY (a/k/a New Mexico Tech), a research university in Socorro, New Mexico focusing science, technology, engineering, entrepreneurialism, and mathematics (the "University").

The following sets for the agreement between ConocoPhillips and the Foundation:

1. The Gift. Donor commits to the Foundation and the Foundation agrees to accept from Donor an initial gift of Sixty Thousand and NO/100 Dollars ($60,000.00) to be paid in a single lump sum in accordance with the payment schedule in paragraph 3 below (the "Gift").

2. Purpose. The Gift shall be for the benefit of the University and used to create a non-endowed fund which may each receive additional future contributions from Donor or others. The referenced fund will be named the "Fueling Tomorrow's Pipeline Scholarship Fund."

   The University office of Career Services will administer the above-named fund and make awards in accordance with the following:

   (a) The fund shall be used to establish a restricted current scholarship named "Fueling Tomorrow's Pipeline Scholarship" at the University and shall benefit selected full-time undergraduate or graduate students continuously enrolled at the University who are (i) seeking a degree within either engineering, environmental sciences or technical communication, as the case may be, and who maintain a cumulative grade point average ("GPA") of 2.5 or higher. Each awarded student will hold the scholarship for one calendar year, and no student shall be allowed to renew the scholarship thereafter.

   (b) The final choice of the recipient of each scholarship will be made by representative(s) of both the Office of New Mexico Tech Career Services and the Oil Conservation Division of the New Mexico Energy, Minerals and Natural Resources Department, acting upon the recommendation of the appropriate University scholarship committee. Selection will be made in the spring of each year funds are available for awarding to begin the following Summer.

   (c) The fund will be administered without discrimination based on race, color, religion, sex, national origin, ancestry, age, disability, veteran status, political affiliation, sexual orientation or gender identity.

   (d) The Foundation shall use the Gift only for those charitable purposes within the meaning of Section 170(c)(2)(B) of the Code, and more specifically, only for the restricted purpose described in this Agreement. No part of the Gift shall be used for lobbying or political activities within the meaning of Section 4945(d)(1) of the Code.

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(e) If, in the opinion of the Foundation, after consultation with the University and ConocoPhillips, it becomes impossible or impractical to use all or any part of the Gift for the purpose described in this Agreement, or if this Agreement is determined to be in conflict with or in violation of any applicable law, the Foundation shall notify ConocoPhillips in writing as soon as possible. In such event, the Foundation, in consultation with ConocoPhillips, may use the Gift in whole or in part for any related purpose which, in the opinion of the Foundation will most nearly accomplish ConocoPhillips' original intent as expressed in this Agreement.

(f) The Foundation shall, upon request, advise ConocoPhillips of how the monies in the fund have been expended.

3. Payment of Gift. Donor agrees to fulfill this Gift commitment according to the following payment schedule:

Payment Amount: $60,000 Payment Date By: May, 2022

4. Representations and Warranties. The Foundation represents and warrants to Donor on the date of this Agreement and on each date on which Donor makes a payment of any initial or additional subsequent contribution to the Fund, that:

(a) The Foundation is a non-profit corporation validly existing, duly formed and in good standing under the laws of the State of New Mexico.

(b) The Foundation is a charitable organization exempt from federal income tax under Section 501(c)(3) of the Code.

(c) The Foundation's execution, delivery and performance of this Agreement are within its organizational powers and have been duly authorized.

5. Tax-Exempt Status. The Foundation agrees to promptly notify Donor if its federal tax status changes, resulting in the Foundation no longer being recognized by the Internal Revenue Service ("IRS") as a tax-exempt charitable organization under Section 501(c)(3) of the Code as of any date on or before the last day of the payment of the Gift.

6. Publicity. ConocoPhillips may release information concerning this Gift in such ways as it deems appropriate. If the Foundation and/or the University is interested in publicizing the Gift in the media, please contact ConocoPhillips' Communications Manager at (281) 293-1149. All press releases and other media materials that mention Donor's name must be reviewed and pre-approved by Donor. Except as otherwise expressly provided for in this Agreement, neither ConocoPhillips, the Foundation nor the University shall use the other's trademarks, service marks, visual product representations, trade names, logos, or other commercial or product designations or disclose such without the other party's prior written consent.

7. Notices. All notices related to this agreement will be delivered as follows:

If to ConocoPhillips: ConocoPhillips Company
1048 Paseo de Peralta
Santa Fe, NM 87501
Attention: Louis Salazar, Director, External Affairs

With a copy to: ConocoPhillips Company
16930 Park Row Drive
Houston, TX 77084

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Attention: Natalie Riley, Director, Corporate Relations

If to the Foundation: New Mexico Tech Foundation
801 Leroy Place
Socorro, NM 87801
Attn: xx

8. Recognition. In recognition of ConocoPhillips' Gift, the Foundation will, among other things, recognize ConocoPhillips in Foundation and University publications. Subject to the provisions of Section 6 above, the Foundation and University, respectively, may recognize this Gift and ConocoPhillips' philanthropic support as a major donor by publication of the donor's name in donor rolls as "ConocoPhillips".

9. Relationship of the Parties. The Foundation is, and at all times in its performance of this Agreement shall be, an independent entity and shall control and direct the methods and manner by which it performs its responsibilities hereunder. Nothing in this Agreement shall be construed as creating an employment relationship, agency, partnership, or joint venture between the Donor and the Foundation.

10. Assignment. The Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. Neither party will assign, in whole or in part, any of its rights or obligations under this Agreement without the prior written consent of the other party.

11. Entire Agreement. This Agreement constitutes the entire agreement of the parties with regard to the matters referred to herein and supersedes all prior oral and written agreements of the parties in respect hereto.

12. Severability. In case any provision in this Agreement shall be invalid, illegal or unenforceable, such provision shall be severable from the rest of this Agreement and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

13. Governing Law. This agreement shall be governed by and construed according to the laws of the State of Texas, excluding any choice of law rules or principles that would result in the application of laws of a different jurisdiction. Nothing in this Agreement shall be construed as a waiver of any party's sovereign, governmental, or official immunity.

Remainder of Page Intentionally Left Blank

[Signature page follows]

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Please indicate the Foundation's acceptance of the terms and conditions of this Agreement by signing two originals and returning both to ConocoPhillips. This Agreement shall become effective upon ConocoPhillips' receipt of this original signed Agreement and ConocoPhillips' acceptance by its signature hereto. One fully executed original of this Agreement will be issued to the Foundation.

DONOR:

CONOCOPHILLIPS COMPANY

By: _____
Name: Andrew D. Roberts
Title: Attorney-in-Fact

FOUNDATION:

NEW MEXICO TECH FOUNDATION

By: _____
Name: Clinton Marrs
Title: Foundation President
New Mexico Tech Foundation

Signature Page to Gift Agreement between ConocoPhillips and New Mexico Tech Foundation.

AMERICAN OVERSIGHT

Subject: [EXTERNAL] NMOGA Joint Committee Meeting
Location: Microsoft Teams Meeting

Start: Wednesday, March 30, 2022 3:30 PM EDT
End: Wednesday, March 30, 2022 5:30 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kathy Ytuarte
Required Attendees: Kathy Ytuarte <Kathy@nmoga.org>; andrew@abadieschill.com <andrew@abadieschill.com>; jason.mcginn@altamira-us.com <jason.mcginn@altamira-us.com>; sgraham@bwenergylaw.com <sgraham@bwenergylaw.com>; TSauer@bwenergylaw.com <TSauer@bwenergylaw.com>; bsumner@bwenergylaw.com <bsumner@bwenergylaw.com>; jparrot@bwenergylaw.com <jparrot@bwenergylaw.com>; lgarvis@burnettoil.com <lgarvis@burnettoil.com>; sarah.ferreyros@cdevinc.com <sarah.ferreyros@cdevinc.com>; meghan.twele@cdevinc.com <meghan.twele@cdevinc.com>; alexandra.fleming@chevron.com <alexandra.fleming@chevron.com>; Verner, Frederick C <fredverner@chevron.com>; kegan.boyer@chevron.com <kegan.boyer@chevron.com>; priscillayelvington@chevron.com <priscillayelvington@chevron.com>; kerry.mceniry@chevron.com <kerry.mceniry@chevron.com>; beverlyallen@chevron.com <beverlyallen@chevron.com>; patrickkillen@chevron.com <patrickkillen@chevron.com>; jennifer.knowlton@conocophillips.com <jennifer.knowlton@conocophillips.com>; tim.baker@conocophillips.com <tim.baker@conocophillips.com>; Beth.Ryan@conocophillips.com <Beth.Ryan@conocophillips.com>; TINA.M.TIFFANY@CONOCOPHILLIPS.COM <TINA.M.TIFFANY@CONOCOPHILLIPS.COM>; ocean.munds-dry@conocophillips.com <ocean.munds-dry@conocophillips.com>; Gerholt, Gabrielle A <Gabrielle.A.Gerholt@conocophillips.com>; louis.c.salazar@conocophillips.com <louis.c.salazar@conocophillips.com>; brittany.sewell@coterra.com <brittany.sewell@coterra.com>; Matt.comeaux@crestwoodlp.com <Matt.comeaux@crestwoodlp.com>; Bond.Hopkins@crestwoodlp.com <Bond.Hopkins@crestwoodlp.com>; nena.honaker@crestwoodlp.com <nena.honaker@crestwoodlp.com>; mollie.schall@crestwoodlp.com <mollie.schall@crestwoodlp.com>; moshe.wolfe@crestwoodlp.com <moshe.wolfe@crestwoodlp.com>; katie.schroder@dgslaw.com <katie.schroder@dgslaw.com>; jlbritain@dcpmidstream.com <jlbritain@dcpmidstream.com>; KRMicha@dcpmidstream.com <KRMicha@dcpmidstream.com>; debbie.watson@dvn.com <debbie.watson@dvn.com>; heather.glaze@dvn.com <heather.glaze@dvn.com>; rebecca.deal@dvn.com <rebecca.deal@dvn.com>; chelsey.green@dvn.com <chelsey.green@dvn.com>; john.alexander@duganproduction.com <john.alexander@duganproduction.com>; jennifer@edclc.org <jennifer@edclc.org>; eric.tiemeyer@energytransfer.com <eric.tiemeyer@energytransfer.com>; kerry.egan@energytransfer.com <kerry.egan@energytransfer.com>; mike.luckett@enlink.com <mike.luckett@enlink.com>; Wray.Heidi <heidi.wray@enstorinc.com>; Crabtree, Gregory <gcrabtree@envirotech-inc.com>; jordan_kessler@eogresources.com <jordan_kessler@eogresources.com>; sarah_mitchell@eogresources.com <sarah_mitchell@eogresources.com>; angie.repka@exxonmobil.com <angie.repka@exxonmobil.com>; kyle.littrell@exxonmobil.com <kyle.littrell@exxonmobil.com>; violav@forl.com <violav@forl.com>; addisong@forl.com <addisong@forl.com>; jimmyc@forl.com <jimmyc@forl.com>; wcc@four-one-three.com <wcc@four-one-three.com>; bpickett@fmellc.com <bpickett@fmellc.com>; Moellenberg, Dalva L. <dlm@gknet.com>; tyler.bridgeman@ghgsat.com <tyler.bridgeman@ghgsat.com>; aesparza@ghgsat.com <aesparza@ghgsat.com>; mltextor <mltextor@globalessinc.com>; jsutton@gmecwy.com <jsutton@gmecwy.com>; pshorty@hilcorp.com <pshorty@hilcorp.com>; jfarrell@hilcorp.com <jfarrell@hilcorp.com>; ccreekmore@hilcorp.com <ccreekmore@hilcorp.com>; mfeldewert@hollandhart.com <mfeldewert@hollandhart.com>; wendy.austin@intrepidpotash.com <wendy.austin@intrepidpotash.com>; tholcomb@jw.com <tholcomb@jw.com>; dmanus@blackhawkenergycorp.com <dmanus@blackhawkenergycorp.com>; ryan@kairosaerospace.com <ryan@kairosaerospace.com>; aarond@kfoc.net <aarond@kfoc.net>; tstathem@legacyreserves.com <tstathem@legacyreserves.com>; nick@lhoperating.com <nick@lhoperating.com>; shall@logosresourcesllc.com <shall@logosresourcesllc.com>; meales@lucid-energy.com <meales@lucid-energy.com>; msanjari@marathonoil.com <msanjari@marathonoil.com>; mygaillour@marathonpetroleum.com <mygaillour@marathonpetroleum.com>; brett.jennings@matadorresources.com <brett.jennings@matadorresources.com>; berman@matadorresources.com <berman@matadorresources.com>; Christopher Norfleet <christopher.norfleet@matadorresources.com>; pthompson@merrion.bz <pthompson@merrion.bz>; bbishop@mewbourne.com <bbishop@mewbourne.com>; Tim Harrington <tharrington@mewbourne.com>; eed@modrall.com <eed@modrall.com>; lrose@montand.com <lrose@montand.com>; mdegenfelder@mspartners.com <mdegenfelder@mspartners.com>; Fayth Franzoy <faythF@nmoga.org>; marcelle.fiedler@nmgco.com <marcelle.fiedler@nmgco.com>; Aimee Barabe <barabe@nmoga.org>; Perez, Yolanda <Yolanda_perez@oxy.com>; karen_sinard@oxy.com <karen_sinard@oxy.com>; kathleen_mowery@oxy.com <kathleen_mowery@oxy.com>; kelley_montgomery@oxy.com <kelley_montgomery@oxy.com>; leslie_reeves@oxy.com <leslie_reeves@oxy.com>; escostello@paalp.com <escostello@paalp.com>; mdchastant@paalp.com <mdchastant@paalp.com>; klparker@paalp.com <klparker@paalp.com>; mesparza@platinumcontrol.com <mesparza@platinumcontrol.com>; rmiller@pvtn.net <rmiller@pvtn.net>; Joan.Harris@SCmid.com <Joan.Harris@SCmid.com>; tflume@sanmateomidstream.com <tflume@sanmateomidstream.com>; jbailey@sanmateomidstream.com <jbailey@sanmateomidstream.com>; schapman@spurenergy.com <schapman@spurenergy.com>; Roberts, Melanie A. <MRoberts@targaresources.com>; adavanzo@tascosaep.com <adavanzo@tascosaep.com>; mcelente@trinityconsultants.com <mcelente@trinityconsultants.com>; aerenstein@trinityconsultants.com <aerenstein@trinityconsultants.com>; jessica.high@h2obridge.com <jessica.high@h2obridge.com>; brooke.herb@wsp.com <brooke.herb@wsp.com>; Reed, Jennifer F <jennifer.f.reed@exxonmobil.com>; adrian.baker@exxonmobil.com <adrian.baker@exxonmobil.com>; stephanie.rabadue@exxonmobil.com <stephanie.rabadue@exxonmobil.com>
Optional Attendees: Doug Ackerman <Doug@nmoga.org>; John Smitherman <JRS@nmoga.org>; Smith, Mike

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<Mike.smith@dvn.com>; Winn, Lisa <Lisa_winn@xtoenergy.com>; Anita Ashland <aashland@enduringresources.com>; amarks@slo.state.nm.us <amarks@slo.state.nm.us>; gbloom <gbloom@slo.state.nm.us>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; jbordegaray@slo.state.nm.us <jbordegaray@slo.state.nm.us>; ebaca@slo.state.nm.us <ebaca@slo.state.nm.us>; blamkin@slo.state.nm.us <blamkin@slo.state.nm.us>; James_Laning@oxy.com <James_Laning@oxy.com>; Mallory, Sheila <smallory@blm.gov>; Hardin, Greg <Greg_Hardin@oxy.com>; jrios@blm.gov <jrios@blm.gov>; Ross Klein (rklein@blm.gov) <rklein@blm.gov>; Clayton@blm.gov <Clayton@blm.gov>; TBryson@blm.gov <TBryson@blm.gov>; Nicholas_Bouterie@oxy.com <Nicholas_Bouterie@oxy.com>; Bates, Charles <cbates@targaresources.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Attachment(s): "NMOGA JCM March 30th 2022_ Agenda_v1 jrs.docx"

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Updated agenda.

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Date & Time:

Wednesday, March 30th, 2022 2:30-4:30(CST) 1:30-3:30 (MT)

Conference Call: RSVP to Kathy Ytuarte For Call-in Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

NMOGA
NEW MEXICO OIL AND GAS ASSOCIATION

Joint Committee Meeting Agenda

1. Introductions
2. Agency Updates:
    a. OCD – Director Sandoval
    b. BLM – Sheila Mallory, Cody Layton, Tye Bryson
        i. Royalty Rate Reductions vs. August 8th determinations
        ii. WEG Lease sale litigation and the proposed path forward
        iii. CFO specific issues
    c. SLO – Greg Bloom & Allison Marks
        i. Various issues of concern from the SLO
3. NMOGA Updates – Doug Ackerman, Aimee Barabe, & John Smitherman
    a. NMOGA Update (Doug)
    b. Legislative Update (Aimee)
    c. NMPWRC update (John)
4. Committee Updates
    a. RPC – Ocean/Yolanda
        i. OCD -
            1. V&F Rules General Discussion
                a. First Quarterly Report filed – 02/15
                b. OCD Analysis show anomalies
                c. Public Portal going live soon
        ii. Deep Disposal Workgroup Update
            1. Induced Seismicity Guidance & Protocol
        iii. EMNRD – Endangered Plant Rule Hearing held Nov. 2nd – no update
        iv. State Land Office – Cultural Rule Hearing held Oct. 22nd – no update
            1. Other issues to be addressed? If so please send to John Smitherman and co-chairs.
    b. EAC – Lisa/Mike
        i. NMED Ozone Rule Status & Timeline Update
        ii. NMED RCB NORM Update

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NEW MEXICO OIL AND GAS ASSOCIATION

Joint Committee Meeting
Agenda

Date & Time:

Wednesday, March 30th, 2022 2:30-4:30(CST) 1:30-3:30 (MT)

Conference Call: RSVP to Kathy Ytuarte For Call-in Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

iii. Quad Oa/b/c Update

c. Public Lands
   i. Statewide
      1. DOI Report on the Federal Oil & Gas Leasing Program
      2. APD Extension Approvals
      3. Communitization Agreements
         a. Delayed approvals/denials
   ii. SENM – Tim/Bradley
      1. Pecos District 1st Qtr Lease Sale EA
      2. Carlsbad RMP
      3. APDs associated with WEG lawsuits update. How many are affected? (John).
   iii. NW – Chuck/Anita
      1. Mancos RMP
      2. Chaco Canyon 10-Mile Buffer

5. Other Business
6. Next Operator's forum (OCD reporting) April 13th.
7. Next Joint Committee meeting June 28th in person in Santa Fe (with virtual option). Hosted at the Inn at Loretto.

AMERICAN OVERSIGHT

Subject: [EXTERNAL] NMOGA Joint Committee Meeting
Location: Microsoft Teams Meeting

Start: Wednesday, December 08, 2021 3:00 PM EST
End: Wednesday, December 08, 2021 5:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kathy Ytuarte
Required Attendees: Kathy Ytuarte <Kathy@nmoga.org>; John Smitherman <JRS@nmoga.org>; Tim Baker <Tim.Baker@conocophillips.com>; Bradley Bishop <bbishop@mewbourne.com>; jrfournier@marathonpetroleum.com <jrfournier@marathonpetroleum.com>; lisa.winn@exxonmobil.com <lisa.winn@exxonmobil.com>; lakesha.radford@westernmidstream.com <lakesha.radford@westernmidstream.com>; lee.m.dula@exxonmobil.com <lee.m.dula@exxonmobil.com>; jennifer.f.reed@exxonmobil.com <jennifer.f.reed@exxonmobil.com>; shall@logosresourcesllc.com <shall@logosresourcesllc.com>; ejmesser19@gmail.com <ejmesser19@gmail.com>; meghan.twele@cdevinc.com <meghan.twele@cdevinc.com>; barry.riley@blackbuckresources.com <barry.riley@blackbuckresources.com>; montgomery.floyd@cdevinc.com <montgomery.floyd@cdevinc.com>; ccombs@taprk.com <ccombs@taprk.com>; bmoore@montand.com <bmoore@montand.com>; rvalverde@montand.com <rvalverde@montand.com>; karen_sinard@oxy.com <karen_sinard@oxy.com>; nicky.fitzgerald@matadorresources.com <nicky.fitzgerald@matadorresources.com>; ocean.munds-dry@conocophillips.com <ocean.munds-dry@conocophillips.com>; Jbruner@logosresourcesllc.com <Jbruner@logosresourcesllc.com>; jlbritain@dcpmidstream.com <jlbritain@dcpmidstream.com>; heather.glaze@dvn.com <heather.glaze@dvn.com>; Leslie_Reeves@oxy.com <Leslie_Reeves@oxy.com>; daubs.thompson@crestwoodlp.com <daubs.thompson@crestwoodlp.com>; jennifer.knowlton@conocophillips.com <jennifer.knowlton@conocophillips.com>; Tyra.Feil@duganproduction.com <Tyra.Feil@duganproduction.com>; abergen@cimarex.com <abergen@cimarex.com>; ccardoza@hilcorp.com <ccardoza@hilcorp.com>; dlm@gknet.com <dlm@gknet.com>; granth@forl.com <granth@forl.com>; chelsey.green@dvn.com <chelsey.green@dvn.com>; violav@forl.com <violav@forl.com>; addisong@forl.com <addisong@forl.com>; kyle.littrell@exxonmobil.com <kyle.littrell@exxonmobil.com>; heidi.wray@enstorinc.com <heidi.wray@enstorinc.com>; mdchastant@paalp.com <mdchastant@paalp.com>; escostello@plains.com <escostello@plains.com>; ruth.shockency@conocophillips.com <ruth.shockency@conocophillips.com>; wcc@four-one-three.com <wcc@four-one-three.com>; kegan.boyer@chevron.com <kegan.boyer@chevron.com>; pshorty@hilcorp.com <pshorty@hilcorp.com>; dmanus@blackhawkenergycorp.com <dmanus@blackhawkenergycorp.com>; moshe.wolfe@crestwoodlp.com <moshe.wolfe@crestwoodlp.com>; pthompson@merrion.bz <pthompson@merrion.bz>; mltextor@globalessinc.com <mltextor@globalessinc.com>; louis.c.salazar@conocophillips.com <louis.c.salazar@conocophillips.com>; mfeldewert@hollandhart.com <mfeldewert@hollandhart.com>; DAndersen@selectenergy.com <DAndersen@selectenergy.com>; bwilley@matadorresources.com <bwilley@matadorresources.com>; Joan.Harris@SCmid.com <Joan.Harris@SCmid.com>; dmallory@legacyreserves.com <dmallory@legacyreserves.com>; john.alexander@duganproduction.com <john.alexander@duganproduction.com>; bpickett@fmellc.com <bpickett@fmellc.com>; melanie.vargas@crestwoodlp.com <melanie.vargas@crestwoodlp.com>; angie.repka@exxonmobil.com <angie.repka@exxonmobil.com>; aashland@enduringresources.com <aashland@enduringresources.com>; jeanette.barron@conocophillips.com <jeanette.barron@conocophillips.com>; sshaheen@montand.com <sshaheen@montand.com>; lkramer@taprk.com <lkramer@taprk.com>; fredverner@chevron.com <fredverner@chevron.com>; ryan@kairosaerospace.com <ryan@kairosaerospace.com>; jefields@eprod.com <jefields@eprod.com>; petermueller@ecovaporrs.com <petermueller@ecovaporrs.com>; agrankin@hollandhart.com <agrankin@hollandhart.com>; rebecca.deal@dvn.com <rebecca.deal@dvn.com>; sarah.ferreyros@cdevinc.com <sarah.ferreyros@cdevinc.com>; kschlichting@cimarex.com <kschlichting@cimarex.com>; zach.robbins@rxsoil.solutions <zach.robbins@rxsoil.solutions>; mollie.schall@crestwoodlp.com <mollie.schall@crestwoodlp.com>; yolanda_perez@oxy.com <yolanda_perez@oxy.com>; MRoberts@targaresources.com <MRoberts@targaresources.com>; lrose@montand.com <lrose@montand.com>; KARI.GIBSON@CONOCOPHILLIPS.COM <KARI.GIBSON@CONOCOPHILLIPS.COM>; priscillayelvington@chevron.com <priscillayelvington@chevron.com>; Gabrielle.A.Gerholt@conocophillips.com <Gabrielle.A.Gerholt@conocophillips.com>; rob.kirk@solarismidstream.com <rob.kirk@solarismidstream.com>; klparker@paalp.com <klparker@paalp.com>; eric.tiemeyer@energytransfer.com <eric.tiemeyer@energytransfer.com>; kerry.egan@energytransfer.com <kerry.egan@energytransfer.com>; ckillion@modrall.com <ckillion@modrall.com>; lgraham@zngc.com <lgraham@zngc.com>; patrickkillen@chevron.com <patrickkillen@chevron.com>; adrian.baker@exxonmobil.com <adrian.baker@exxonmobil.com>; schapman@spurenergy.com <schapman@spurenergy.com>; mike.smith (mike.smith@dvn.com) <mike.smith@dvn.com>; cwalls@blm.gov <cwalls@blm.gov>; adrienne.sandoval@state.nm.us <adrienne.sandoval@state.nm.us>; thallen@blm.gov <thallen@blm.gov>; TBryson@blm.gov <TBryson@blm.gov>; tshughes@blm.gov <tshughes@blm.gov>; Ariana Solis <Ariana.Solis@cdevinc.com>; brett.jennings@matadorresources.com <brett.jennings@matadorresources.com>
Optional Attendees: Chuck Creekmore <ccreekmore@hilcorp.com>; Leland Gould <Leland@nmoga.org>; Fayth Franzoy <faythF@nmoga.org>; Gloria Ruiz <gloria@nmoga.org>; Aimee Barabe <barabe@nmoga.org>; Robert McEntyre <robert@nmoga.org>
Attachment(s): "NMOGA JCM Dec 8th 2021_ Agenda_Final.pdf"

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Date & Time:

Wednesday, December 8th, 2021
2:00-4:00(CST)
1:00-3:00 (MT)

Conference Call: RSVP to Kathy Ytuarte For Call-in Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

NMOGA
NEW MEXICO OIL AND GAS ASSOCIATION

Joint Committee Meeting Agenda

1. Introductions
2. Agency Updates:
    a. OCD – Director Sandoval
    b. BLM – Tye Bryson, Ty Allen & Tracy Hughes
3. NMOGA Updates – Leland Gould, Robert McEntyre, and John Smitherman
    a. Fueling New Mexico (Robert)
    b. NMPWRC Update (John)
4. Committee Updates
    a. RPC – Ocean/Yolanda
        i. OCD -
            1. V&F Rules General Discussion
                a. Nov. 29th – ALARM Guidance & Forms Finalized & C-115B Update Issued
                b. Dec. 7th Operator Forum
                c. Dec. 17th OCC Hearing to amend Part 28
            2. Induced Seismicity Guidance & Protocol issued Nov. 23rd
        ii. Deep Disposal Workgroup Update
        iii. EMNRD – Endangered Plant Rule Hearing held Nov. 2nd
        iv. State Land Office – Cultural Rule Hearing held Oct. 22nd
    b. EAC – Lisa/Mike
        i. NMED Ozone Rule Status & Timeline Update
        ii. NMED RCB NORM Update
        iii. Quad Oa/b/c Update
    c. Public Lands
        i. Statewide
            1. DOI Report on the Federal Oil & Gas Leasing Program
            2. APD Extension Approvals
            3. Communitization Agreements
                a. Delayed approvals/denials
        ii. SENM – Tim/Bradley
            1. Pecos District 1st Qtr Lease Sale EA
            2. Carlsbad RMP
        iii. NW – Chuck/Anita
            1. Mancos RMP
            2. Chaco Canyon 10-Mile Buffer
5. Other Business

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From: Perez, Yolanda <Yolanda_Perez@oxy.com>
Sent: Monday, March 14, 2022 6:29 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: John Smitherman <JRS@nmoga.org>
Subject: [EXTERNAL] NMOGA Waste Rule Forum_03.15.22_OCD.pptx
Attachment(s): "NMOGA Waste Rule Forum_03.15.22_OCD.pptx"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne,

As discussed, please see attached slides for tomorrow's discussion.

Sincerely,
Yolanda Perez
Sr. Regulatory Affairs Consultant
Occidental Oil & Gas
5 Greenway Plaza Suite 110 Houston, TX 77046
Room 11.023
Office (713) 497-2069
Cell (281) 793-1680
yolanda_perez@oxy.com

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NEW MEXICO OIL AND GAS ASSOCIATION

Waste Rule Operator Forum
March 15, 2022

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Quarterly Reports Anomalies

- Director Sandoval wants to discuss:
  - Anomalies of volumes reported on first quarterly report
  - Public portal of V&F data opening in approximately 2 weeks

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Operator Questions to OCD

- If operators are still having trouble submitting quarterly report, who should they reach out to?
- Are all the V&F volumes reported on C-115B expected to make it to the V & F codes on C-115?
  - For example, pneumatics and storage tanks
- What is the process to reconcile well/facility data?
  - For example, wells/facilities that operator no longer owns.
    - Wells were transferred and OCD shows new operator but not on facilities.

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Operator Questions to OCD

- How long do operators have to amend Quarterly/C-115B/C-115 reports?
- If well status is “Plugged, Not Released”, why should they continue to be reported on C-115B reports?
  - Site reclamation, to reach “Plugged, Site Released” status, can take up to a year or longer

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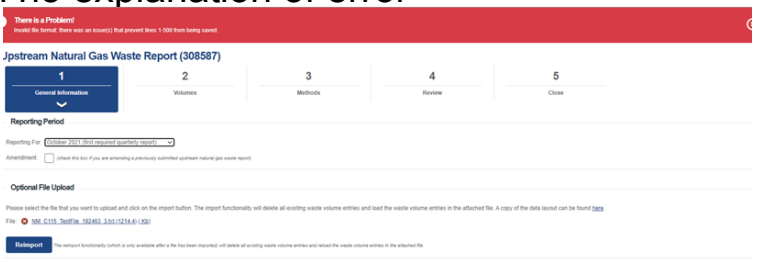
Quarterly Reports & C-115B Data Layout Issues

- Operators receiving error messages when uploading txt file with no explanation of error



- Causing a lot of time and effort to try to figure out by trial and error what the issue is

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Errors

- **Duplicate records**
- **Formatting:**
  - Spaces, blanks, etc.
  - Wanting wells listed first, then facilities, then beneficial use
- **Fatal Errors:**
  - Missing Wells/Facilities
  - Wells/Facilities not needing to be reported
  - Wells/Facilities not owned by Operator
  - V&F Volumes lower than reported on C-129/C-141

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From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Thursday, March 10, 2022 3:00 PM EST
Subject: [EXTERNAL] Notice of 2022 IOGCC Annual Business Meeting and Request for Resolutions
Attachment(s): "Notice of Meeting and Request for Resolutions 03.10.2022.pdf","Drafting an IOGCC Resolution and Action Plan 2022.docx"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

IOGCC Official and Associate Official Representatives,

Please see the attached notice of the Annual Business Meeting, which will be held at the Skirvin Hilton in Oklahoma City, Oklahoma, on May 15-17, 2022. Governors of IOGCC member and associate member states will receive a hard copy of this notice by mail.

Note that the deadline for filing proposed resolutions for consideration at the Annual Business Meeting is April 15, 2022.

Please let me know if you have any questions.

Thanks,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

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Drafting an IOGCC Resolution and Action Plan

Resolutions are typically debated at the Annual Business Meeting and Annual Conference. The IOGCC bylaws specify the resolutions process, and correspondence is sent to all governors and official and associate official representatives about two months prior to the Annual Business Meeting and Annual Conference calling for proposed resolutions and noting the deadline for filing proposed resolutions, which is 30 days prior to the meeting.

Resolutions should be as brief as possible, while fully explaining the issue to someone who may not be knowledgeable in the subject area—such as a state legislator or member of Congress. They should include Whereas clauses, which state specific facts of the issue involved, and close with a Therefore Be It Resolved clause, which is the conclusion of the IOGCC based on the facts stated.

A sample resolution and action plan are attached. Note that IOGCC staff will insert the number of the resolution.

The action plan, which must accompany the resolution unless the action to be taken is clear on the face of the resolution, sets forth the steps to be followed to implement the resolution. As you consider why the IOGCC should pass a resolution on your issue, also consider what the IOGCC can do to influence the subject matter of the resolution. Issues to consider in drafting the action plan include to whom the resolution should be communicated, how the resolution should it be communicated and by whom, what other investigation or research is needed, and what other organizations might be joined in the effort.

You should consider communicating with some of the members of the Resolutions Committee prior to their meeting to discuss the resolution and address questions. You should plan to attend the meeting(s) of the Resolutions Committee to be available for questions.

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Sample Resolution

RESOLUTION 20.071

Urging the United States Congress to Adopt Legislation to Stimulate the National Economy and Promote Energy Independence by Plugging Orphan Wells

WHEREAS, the COVID-19 global pandemic and global oversupply triggered a historic downturn in crude oil prices and fuel consumption, forcing North American oil and gas producers to slash production and cut the workforce; and

WHEREAS, the maintenance of a trained and experienced oil and gas workforce is fundamental to maintaining energy independence and security for the United States; and

WHEREAS, Rystad Energy Research Services estimates more than a million oil worker jobs are at risk to be cut in 2020 due to low project volumes brought by the COVID-19 pandemic and the ongoing global oil price dispute; and

WHEREAS, at the Annual Business Meeting of the Interstate Oil and Gas Compact Commission (IOGCC) held in July 2020, IOGCC discussed the need to maintain a stable workforce of oilfield workers vulnerable to layoff during the COVID-19 pandemic; and

WHEREAS, IOGCC reported in its 2019 study, "Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies," that 30 states reported a total of 56,600 documented orphan wells and an average orphan well plugging expenditure of $18,940 in 2018; and

WHEREAS, the government of Canada adopted a C$1.7 billion economic stimulus effort to clean up its orphaned wells in Alberta, Saskatchewan and British Columbia; the funding is expected to retain and create approximately 10,000 well-paying jobs in the energy sector; and

WHEREAS, orphan wells and well sites may pose a risk to the environment, public health, and safety if not properly plugged and restored; and

WHEREAS, federal economic stimulus funds to the states to plug orphan wells in accordance with state laws, along with research funding to assist the states in documenting and assessing orphan wells, can provide jobs to sustain the oil and gas workforce and their local communities and address potential environmental harms; and

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WHEREAS, IOGCC's mission to promote the conservation and efficient recovery of domestic oil and natural gas resources, while protecting health, safety, and the environment, correlates with the purposes of this federal stimulus request.

NOW, THEREFORE, BE IT RESOLVED THAT, the Interstate Oil and Gas Compact Commission does hereby support and endorse legislative actions by Congress to provide at least five years of federal funding for states to plug orphan wells and restore orphan well sites in accordance with state laws plus funding for research to assist states in documenting and assessing currently undocumented orphan wells; and further requests that the members of the congressional delegation of each IOGCC state take action as necessary to achieve this objective.

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RESOLUTION 20.071
ACTION PLAN

Urging the United States Congress to Adopt Legislation to Stimulate the National Economy and Promote Energy Independence by Plugging Orphan Wells

1. Send copies of the resolution to all IOGCC Governors and Official Representatives, including all directors of member state oil and gas divisions.

2. Send copies of the resolution to the President, Vice President and key administrative officials urging them to work with the IOGCC to promote energy independence, public health, and safety through adoption of the proposed legislation.

3. Send copies of the resolution to Congressional leaders and testify before Congressional committees, if invited and as appropriate.

4. Send copies to state and national oil-and-gas industry and groundwater-protection associations.

5. Monitor status of legislative process, advocate in Congress for provisions, and keep states informed and involved.

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INTERSTATE Oil & Gas COMPACT COMMISSION

MEMORANDUM

TO: IOGCC Governors and Official or Associate Official Representatives

FROM: Lori Wrotenbery, Executive Director LW

RE: Notice of Meeting and Request for Resolutions
2022 Annual Business Meeting
Oklahoma City, Oklahoma
May 15-17, 2022

DATE: March 10, 2022

The Annual Business Meeting of the Interstate Oil and Gas Compact Commission (IOGCC) will be held at the Skirvin Hilton, in Oklahoma City, Oklahoma, on May 15-17, 2022. More information on the meeting is posted on the IOGCC website. We hope your schedule will allow you to participate.

This memorandum is your official notice of the deadline for submitting resolutions for consideration at the Annual Business Meeting. The IOGCC bylaws require any proposed resolution expressing a position or policy of the IOGCC to be submitted to the IOGCC office in Oklahoma City by **Friday, April 15, 2022.**

To ensure your proposed resolutions will be considered, and to give other member states an adequate opportunity for review, please observe the April 15th deadline. Resolutions submitted after that date will require a two-thirds vote of the members of the Resolutions Committee present and a two-thirds vote of the member states present to be considered at the Annual Business Meeting.

Enclosed is an information sheet titled "Drafting an IOGCC Resolution and Action Plan." An action plan must accompany each proposed resolution.

If you or your staff have any questions regarding the upcoming meeting or the resolutions process, please contact me by phone at (405) 522-8381 or by email at Lori.Wrotenbery@iogcc.state.ok.us.

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NM-EMNRD-22-0512-B-000252

Subject: [EXTERNAL] October 6, 2021 JITC Meeting - Santa Fe
Location: New Mexico Oil and Gas Association - 123 W Booth St, Santa Fe, NM 87505; https://exxonmobil.zoom.us/j/91659237671

Start: Wednesday, October 06, 2021 11:00 AM EDT
End: Wednesday, October 06, 2021 3:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Gahr, Jason Z
Required Attendees: Gahr, Jason Z <jason.z.gahr@exxonmobil.com>; cwalls@blm.gov <cwalls@blm.gov>; jtimmons@blm.gov <jtimmons@blm.gov>; BLM - Jim Rutley <jrutley@blm.gov>; jstovall@blm.gov <jstovall@blm.gov>; SHajar@btaoil.com <SHajar@btaoil.com>; Skylar.Fast@cdevinc.com <Skylar.Fast@cdevinc.com>; Edward.Blair@chevron.com <Edward.Blair@chevron.com>; addi@chevron.com <addi@chevron.com>; Albert.Gonzales@conocophillips.com <Albert.Gonzales@conocophillips.com>; Parker.Simmons@conocophillips.com <Parker.Simmons@conocophillips.com>; susan.b.maunder@conocophillips.com <susan.b.maunder@conocophillips.com>; Jeff.Walla@dvn.com <Jeff.Walla@dvn.com>; James_Griffin@eogresources.com <James_Griffin@eogresources.com>; Laci_Stretcher@eogresources.com <Laci_Stretcher@eogresources.com>; Patrick_Padilla@eogresources.com <Patrick_Padilla@eogresources.com>; Hall, James A <james.hall@exxonmobil.com>; Chando, Jesse M <jesse.m.chando@exxonmobil.com>; Brian.Stone@intrepidpotash.com <Brian.Stone@intrepidpotash.com>; Greg.Bruce@IntrepidPotash.com <Greg.Bruce@IntrepidPotash.com>; kyle.smith@intrepidpotash.com <kyle.smith@intrepidpotash.com>; Travis.McBain@IntrepidPotash.com <Travis.McBain@IntrepidPotash.com>; Will_Fenley@IntrepidPotash.com <Will_Fenley@IntrepidPotash.com>; bhall@marathonoil.com <bhall@marathonoil.com>; mszudera@marathonoil.com <mszudera@marathonoil.com>; CHahn@matadorresources.com <CHahn@matadorresources.com>; Cade.LaBolt@matadorresources.com <Cade.LaBolt@matadorresources.com>; cmitchell@mewbourne.com <cmitchell@mewbourne.com>; tcude@mewbourne.com <tcude@mewbourne.com>; Dan.Morehouse@MosaicCo.com <Dan.Morehouse@MosaicCo.com>; John.Anderson@mosaicco.com <John.Anderson@mosaicco.com>; Paul.Gill@mosaicco.com <Paul.Gill@mosaicco.com>; Ric.Bell@mosaicco.com <Ric.Bell@mosaicco.com>; jrs@nmoga.org <jrs@nmoga.org>; Lpatrick@novoog.com <Lpatrick@novoog.com>; kshipley@novoog.com <kshipley@novoog.com>; Daniel_Holderman@oxy.com <Daniel_Holderman@oxy.com>; Garrett_Granier@oxy.com <Garrett_Granier@oxy.com>; Gregory_Caraway@oxy.com <Gregory_Caraway@oxy.com>; kelvin@pbex.com <kelvin@pbex.com>; mike@primerockresources.com <mike@primerockresources.com>; mbmurphy@stratanm.com <mbmurphy@stratanm.com>; mkrakauskas@stratanm.com <mkrakauskas@stratanm.com>; skelley@stratanm.com <skelley@stratanm.com>; Bramsey@taprk.com <Bramsey@taprk.com>; ccombs@taprk.com <ccombs@taprk.com>; rdelong@titusoil.com <rdelong@titusoil.com>; blake@coveyenergy.com <blake@coveyenergy.com>; Dula, Lee M <lee.m.dula@exxonmobil.com>; tbryson@blm.gov <tbryson@blm.gov>
Optional Attendees: Covarrubias, Adrian (MRO) <acovarrubias@marathonoil.com>; James Clark <james@pbex.com>; Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>; Jason South <jason@primerockresources.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

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Reminder – JITC meeting is next week!

Please join us for the third JITC meeting of 2021, to be held at the Mew Mexico Oil and Gas Association office in Santa Fe following the NMOGA meeting. Zoom details below for remote participants.

We will start at 0900 hrs Mountain Time and adjourn around 1300 hrs.

Proposed Agenda:

Item	Start	Duration	Presenter	Topic
1	9:00	0:05		Call Meeting to Order and designate a scribe/note taker.
2	9:05	0:05		Roll call
3	9:10	0:15	Gahr	Review of meeting minutes from 04 August 2021 JITC meeting and acceptance into record.
4	9:25	0:20	Gahr	Review changes made to Governance Document. Intention is to discuss any objection or feedback to the proposed JITC governance document and to vote on acceptance of the document if no major objections.

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5	9:45	0:40	Padilla	Update group on proposed scope of produced water recycling group and progress made toward creating group. Scope includes work to be undertaken, audience, issues in priority order, and participants to involve.
6	10:25	0:30	Hightower	Presentation from the Produced Water Consortium
7	10:55	0:10		10 minute break
8	11:05	0:40	Cude/ Rutledge	Update on the outcome of the meeting to provide comments to the BLM on IM. Update on the status of the BLM internal memo.
9	11:45	0:40		Lunch
10	12:25	0:40	Griffin	Update on progress within the Well Integrity Working group
11	13:05	0:30		Any other topics, set next meeting date.
12	13:35	0:00		Adjourn

Look forward to seeing you all in Santa Fe.

Directions to the Venue

Jason Gahr and Robert Baldridge
JITC Co-Chairs

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Zoom Meeting Invite

Join Meeting

Meeting URL:
https://exxonmobil.zoom.us/j/91659237671

Meeting ID: 916 5923 7671

Phone One Tap:
+13462487799,,91659237671# US
(Houston) +16699009128,,91659237671#
US (San Jose)

Join by Telephone

Dial by your location:
+1 346 248 7799 US (Houston) +1 669 900
9128 US (San Jose) +1 253 215 8782 US
(Tacoma) +1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York) +1 301
715 8592 US (Washington DC)

Find your local number:
https://exxonmobil.zoom.us/u/ahvudK9Uj

Join from an H.323/SIP room system

Join by SIP
91659237671@zoomcrc.com

Join by H.323
162.255.37.11 (US West)
162.255.36.11 (US East)
115.114.131.7 (India Mumbai)
115.114.115.7 (India Hyderabad)
213.19.144.110 (Amsterdam Netherlands)
213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
149.137.68.253 (Mexico)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
91659237671@162.255.36.11 (US East)

Meeting ID: 916 5923 7671

Want more Zoom tips? Visit goto/zoom.

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Subject: [EXTERNAL] Oxy Response to M3.2 Event
Location: Microsoft Teams Meeting

Start: Monday, December 20, 2021 4:30 PM EST
End: Monday, December 20, 2021 6:00 PM EST
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Perez, Yolanda
Required Attendees: Perez, Yolanda <Yolanda_Perez@oxy.com>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Thompson, Jeff C <Jeffrey_Thompson@oxy.com>; Greg Hardin <Greg_Hardin@oxy.com>

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Oxy would like to discuss M3.2 event response. Please include others as you see fit.

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 346-230-4919,,610158163# United States, Houston
Phone Conference ID: 610 158 163#
Find a local number | Reset PIN

Learn More | Meeting options

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From: Montgomery, Kelley A <Kelley_Montgomery@oxy.com>
Sent: Monday, December 27, 2021 11:53 AM EST
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Mowery, Kathleen S <Kathleen_Mowery@oxy.com>; Bennett, Stephen R <Stephen_Bennett@oxy.com>
Subject: [EXTERNAL] RE: RE: ACO Extension Request - Oxy

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hello Brandon,

Thank you for the reply. I will notify the team that the request has been denied and that the 3 wells below will not be able to produce without a gas takeaway after the deadline of Jan. 7.

I hope you have a good week.

Kelley

From: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Sent: Monday, December 27, 2021 10:22 AM
To: Montgomery, Kelley A <Kelley_Montgomery@oxy.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Mowery, Kathleen S <Kathleen_Mowery@oxy.com>; Bennett, Stephen R <Stephen_Bennett@oxy.com>
Subject: Re: [EXTERNAL] RE: ACO Extension Request - Oxy

WARNING - This message is from an EXTERNAL SENDER - be CAUTIOUS, particularly with links and attachments.

Greetings Kelley,

After review, OCD denies Oxy's request for an extension of the ACO for the Bradly wells for failure to show good cause. On July 9, 2021, Oxy requested an ACO for the Bradly wells, which OCD subsequently approved with a deadline of January 7, 2022. On December 9, 2021, Oxy submitted a request for extension of the deadline until March 31, 2022, stating that it could not tie-in the wells to the gas takeaway point until SLO approved the ROW, and that "[t]here is uncertainty on the ROW approval timing." SLO advised that Oxy did not submit the ROW request until the following day, December 10, 2021.

Oxy waited until the last minute to ask for the ACO extension, then implied that the extension was needed because of uncertainty in SLO's processing of the ROW request. Oxy knew or should have known earlier that it required the ROW, that it needed SLO's approval of the ROW, and that SLO's average processing time for ROW requests is 60 days. Accordingly, absent further information, Oxy's statement does not constitute good cause for an extension of the ACO for the Bradly wells.

OCD also denies Oxy's request for an extension of the ACO for the Corral Fly well. Oxy states that it needs an extension until January 31, 2022 in order to complete the tie-in of the well. However, Oxy does not explain why it waited until December 9 to request the extension or until the week of December 13 to construct the tie-in. Oxy also suggests that it might experience unforeseen construction issues over the holidays, but still expects the tie-in to be completed by the existing deadline. On these facts, Oxy has not demonstrated good cause for an extension until the January 31, 2022.

Thank You

Brandon Powell
Engineering Bureau Chief
New Mexico Oil Conservation
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Montgomery, Kelley A <Kelley_Montgomery@oxy.com>
Sent: Tuesday, December 21, 2021 8:03 AM
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Mowery, Kathleen S <Kathleen_Mowery@oxy.com>; Bennett, Stephen R <Stephen_Bennett@oxy.com>
Subject: [EXTERNAL] RE: ACO Extension Request - Oxy

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Good morning Adrienne and Tiffany,

I wanted to touch base regarding the status of Oxy's ACO extension request below. Please let me know if you have any questions or would like to discuss.

Happy holidays!

Kelley

From: Montgomery, Kelley A
Sent: Thursday, December 9, 2021 1:44 PM
To: 'Polak, Tiffany, EMNRD' <Tiffany.Polak@state.nm.us>; 'Sandoval, Adrienne, EMNRD' <Adrienne.Sandoval@state.nm.us>
Cc: 'Ames, Eric, EMNRD' <Eric.Ames@state.nm.us>; 'Powell, Brandon, EMNRD' <Brandon.Powell@state.nm.us>
Subject: ACO Extension Request - Oxy

Good afternoon Adrienne and Tiffany,

Oxy respectfully requests an extension to the January 7, 2022 venting and flaring ACO deadline for 3 wells on the attached ACO application(s). All other wells in the ACO will either be shut in or connected to a pipeline takeaway by the deadline.

Below is the detailed request and justification for the 3 wells:

Oxy Entity	Well Name	Well #	API NUMBER	Reason for maintaining production	Latest Well Test	Extension Request Date	Justification
Oxy USA	BRADLY 13 FEDERAL	#004Q	3001531704	This well has production obligations to hold the lease.	6 BOPD	3/31/2022	Oxy cannot begin construction to tie in the well to the gas takeaway point a Corral Canyon 12 State 1H until the Right of Way (ROW) is approved by the SLO. There is uncertainty on the ROW approval timing. Oxy requests the full extension time allowed, but will tie in the well as soon as possible. The construction is estimated to take 2 weeks.
Oxy USA	BRADLY 13 FEDERAL	#001	3001529256	This well has production obligations to hold the lease.	42 BOPD	3/31/2022	Oxy cannot begin construction to tie in the well to the gas takeaway point a Corral Canyon 12 State 1H until the Right of Way (ROW) is approved by the SLO. There is uncertainty on the ROW approval timing. Oxy requests the full extension time allowed, but will tie in the well as soon as possible. The construction is estimated to take 2 weeks.
Oxy USA WTP LP	CORRAL FLY 11 STATE	#001	3001528716	This well has production obligations to hold the lease.	6 BOPD	1/31/2022	Archeological survey is complete and construction to tie in the well will begin this week. Due to any unforeseen construction issues over the holidays, Oxy is requesting an extension to the end of January to complete the tie in. Oxy is hopeful that the construction will be completed by the January 7, 2022 deadline.

Please feel free to contact me with any questions or clarifications. I appreciate your consideration.

Kelley Montgomery, PE

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Regulatory Director
Occidental Oil and Gas
Office - 713.366.5716
Cell: 832.454.8137
kelley_montgomery@oxy.com

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From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, January 20, 2022 6:03 PM EST
To: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
CC: hagutierrez@marathonoil.com <hagutierrez@marathonoil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Mike Newell <mnewell@newelllawnm.com>
Subject: [EXTERNAL] RE: [EXT] RE: Julius Fee Shut In

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Ms. Sandoval, Mr. Gutierrez.

I am writing in response to Ms. Sandoval correspondence with Mr. Pettigrew my State of New Mexico House of Representative. In summary Ms. Sandoval states that Marathon Oil wants to produce the well and it is capable to produce in paying quantities (who wouldn't with today's prices of oil and gas).
Enterprise has a line Marathon can meter and hook up to the well and can take the gas.

Ms. Sandoval further states "the problem appears to be one of communication, rather than a technical or commercial dispute, and last week, both companies committed to bring the right operations staff together to identify and resolve any remaining issues."

This is **GREAT NEWS** for someone like me who is a Third Generation, life long New Mexican who supports their local economy with Charitable Contributions, Helps the Poor, Builds Houses for Habitat, and pays taxes!!!!

Below I have copied and pasted four emails from Mr. Clayton Rule where he states in summary:
January 25, 2021 – Waiting on Royalty department to produce a check, still have not received a royalty check. The well has been shut in for 3.5 years or so???
January 25, 2021 – Enterprise could not process gas due to pipeline leak, no production reports, and water hauling reports produced
February 26, 2021 – No viable sales line
September 17, 2021 – "Marathon would still have to acquire some right of way before we could test and potentially tie the Julius Fee into our nearby inactive system and then into the DCP meter we identified".

This makes you really wonder if Marathon is telling the truth, communication states one thing actions speak louder than the communication.

Me and my family has owned these mineral for over 80 years, Marathon either needs to produce these minerals or plug and abandon the well.

Sincerely,

Lee Roberson
Cc: Mike Newell, esq.

Below is a copy and paste of these email below:

January 25, 2021 email from Mr. Clayton Rule to me where he states:

I am waiting for my DO department to provide me with an exact figure for royalties that would have been due on any production sold prior to the last shut in. However, looking offhand I'm fairly certain the amount will be under $50. Marathon usually does not issue monthly royalty checks for amounts under $50, rather we accrue until funds amount to $50 or otherwise pay as required by State statute.

A Second January 25, 2021 email from Mr. Clayton Rule to me where he states:

The 2 days of production where from when we put the well back on production. You'll recall:

The well was originally shut in during 2018 because Enterprise had a plant issue and could not process all of the gas they were receiving, so they shut in anybody under a contract that did not require them to take gas.

In 2019 Enterprise resolved the plant issue and said they would start taking gas again, but had in the interim removed the meter that the Julius Fee ties into. We got them to eventually put a new meter in so we could tie the well back into their system. That would have been in June of 2020. With the meter back on we opened the well to sales, but determined in pretty short order that Enterprise's line had developed hole and had to shut the well back in.

Enterprise has yet to repair the section of line with the hole, and that leaves us currently without a market for the gas from Julius Fee.

As far as the water question, I'd have to check with my operations folks, but suspect any volume of water produced during

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the time the well was on in June was sent to the tank on location.

February 16, 2021 email from Mr. Clayton Rule to me where he states:
I'm not sure what you're referencing, but there was nothing special about the timing. Without a market for gas from the well the leases states we'll make shut payments per the terms of the lease. There is no language in the lease requiring us to produce the well somehow each year, as that would run contrary to the fact that there is no viable sales line available.

I am not the one having those conversations with the field, or with enterprise, but will reach out to the appropriate folks within Marathon to see what we have.

September 17, 2021 email from Mr. Clayton Rule to me where he states:
The situation at the Julius Fee has not materially changed. Marathon would still have to acquire some right of way before we could test and potentially tie the Julius Fee into our nearby inactive system and then into the DCP meter we have identified. Unfortunately, the owner of that property was inaccessible due to COVID restrictions at the nursing home where she resided, and has since passed away. At this time we are still waiting for her heirs to have administration of her estate so we can identify who will be able to execute a valid right of way over the property. Until that is resolved there are no other markets for gas from the Julius Fee. As such, since it is still on the Enterprise system, which is not taking gas, the well will have to remain shut in.

From: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Sent: Thursday, January 20, 2022 1:48 PM
To: Lee Roberson <Lee@hobbsanchor.com>
Subject: Fwd: [EXT] RE: Julius Fee Shut In

Sent from my iPhone

Begin forwarded message:

> **From:** "Sandoval, Adrienne, EMNRD" <Adrienne.Sandoval@state.nm.us>
> **Date:** January 20, 2022 at 10:10:39 AM MST
> **To:** "Pettigrew, Randall" <Randall.Pettigrew@nmlegis.gov>
> **Cc:** "Propst, Sarah, EMNRD" <Sarah.Propst@state.nm.us>, "Leahy, Todd, EMNRD" <Todd.Leahy@state.nm.us>
> **Subject: [EXT] RE: Julius Fee Shut In**
>
> Good Morning Rep. Pettigrew-
>
> I am writing to give you an update on the Julius well. Marathon has informed OCD that the well is still capable of producing in paying amounts, it wants to produce the well, and there is both a line to Enterprise's gathering system and a meter to measure the gas. For its part, Enterprise has informed OCD that it is has the capacity to take the gas and its gathering system is operational and capable of taking the gas. At this juncture, the problem appears to be one of communication, rather than a technical or commercial dispute, and last week, both companies committed to bring the right operations staff together to identify and resolve any remaining issues. We are waiting to hear the result of their discussion.
>
> As you know, OCD does not have the statutory authority to order an operator to produce a well or a gathering system operator to take the gas, but we are committed to ensuring that New Mexico's oil and gas resources are produced for the benefit of the state and its citizens whenever possible consistent with our duty to prevent waste and protect correlative rights, public health, and the environment. To that end, OCD will continue to work with Marathon and Enterprise to facilitate the production of the Julius well, and we will keep you informed as we obtain additional information.
>
> To discuss this matter further with Marathon, OCD suggests that you reach out to Hugo Gutierrez at hagutierrez@marathonoil.com or 713-502-6703.
>
> Thanks
>
> Adrienne Sandoval
> Oil Conservation Division Director
> 1220 S. St. Francis Dr.
> Santa Fe, NM 87505
> 505-476-3441
> Adrienne.Sandoval@state.nm.us
>
> ---
>
> **From:** Sandoval, Adrienne, EMNRD
> **Sent:** Wednesday, January 12, 2022 5:40 PM
> **To:** Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
> **Cc:** Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>

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Subject: RE: Julius Fee Shut In

Good Evening Rep. Pettigrew-

As a follow up from my last email, OCD received initial information from the companies and is engaged in some follow up questions to ensure that we appropriately understand the situation. I will follow back later this week with another update.

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

From: Sandoval, Adrienne, EMNRD
Sent: Friday, January 7, 2022 12:30 PM
To: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Cc: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Pedro, Lois C, EMNRD <LoisC.Pedro@state.nm.us>
Subject: RE: Julius Fee Shut In

Good Afternoon Rep. Pettigrew-

I hope you had a good new year. OCD has reached out to both operators, Marathon Oil and Enterprise. Due to the timing with the holidays and them having staff out on vacation, they have both committed to providing updates to us by the end of the day today. Once I have further information I will circle back with you.

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

From: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Sent: Friday, January 7, 2022 12:05 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Pedro, Lois C, EMNRD <LoisC.Pedro@state.nm.us>
Subject: RE: Julius Fee Shut In

Happy New Year.

Please provide any updates.

Thank you

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, December 21, 2021 9:54 AM
To: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Cc: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Pedro, Lois C, EMNRD <LoisC.Pedro@state.nm.us>
Subject: [EXT] RE: Julius Fee Shut In

Rep. Pettigrew-

My apologies for the delayed response, I have been out sick.

OCD is looking into the information that you provided regarding the well and is evaluating the most appropriate path forward. I will circle back with you when I have more information on next steps.

Have a happy holiday.

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505

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505-476-3441
Adrienne.Sandoval@state.nm.us

From: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Sent: Friday, December 17, 2021 11:32 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Pedro, Lois C, EMNRD <LoisC.Pedro@state.nm.us>
Subject: FW: Julius Fee Shut In

Ms. Sandoval,

Please see the email thread below. The mineral rights owner is requesting that the existing "non-producing" Gas Well be moved from "Inactive Status" to "Plug and Abandoned Status".

As you can discern from the thread below, this well is non-producing, has no active pipeline connections and the producing company has no intention of using it as a production well.

Please feel free to contact my constituent directly to resolve this issue as soon possible. Once resolved, and the well has been added to the "Plug and Abandoned Status", please provide notification to me that the issue has been resolved to the fee and mineral owners satisfaction.

Mr. Roberson can be contacted by email and cell phone at:
Lee@hobbsanchor.com
575-631-8270

Thank you

Randall T. Pettigrew
R – Lea County
District 61

1806 West Avenue J
Lovington, NM 88260
Cell Phone: 505-379-6607
Email: Randall.Pettigrew@nmlegis.gov

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, December 16, 2021 11:23 AM
To: Pettigrew, Randall <Randall.Pettigrew@nmlegis.gov>
Subject: [EXT] FW: [External] RE: Julius Fee Shut In

Representative Pettigrew,

Here is most of the communication with Marathon since August 19, 2019. This well was drilled in 2001 has not produced in about 4 years. It is on Cass Draw in Eddy county off of Roberson Road. Surface water is present and it is a tributary to the Pecos River about 1/10th of a mile to the Pecos River. I know they have had environmental spills. I have called OCD numerous times over the past several years and have been told that they are overworked time and can't dedicate any more time to what they have. It is on the inactive well status and needs to be moved to the Plug and Abandon Status. Marathon has no interest in drilling any wells in New Mexico due to Democrat Politics and the Governor. They have ceased all drilling operations.

The well is named after my father: Here is the details.

Julius Fee #1
API 3001532532
S6, T23S, R28E 1500FNL, 1650 FEL

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Lat 32-3376541
Lon -104.12231842
Spud Date 1-20-2003
Total Depth 12,630

In a nutshell: Marathon acquired this property from BD Operating, from Nadel and Gussman, from VF Petroleum. They have not produced this well in over 4 years. Last year they reported to the New Mexico OCD two days of production, however there was no royalty check issued.
The below emails they say that Enterprise refused to take gas 3-4 year ago due to excess volume thus they disconnected the pipeline. Then they said they were working at attaching a different pipeline but due to surface owners death they could not get a easement because the surface was in an estate.
Then they said when they did hook it up to Enterprise Pipeline there was a hole in the Pipeline?
They refused to send me a copy of their production contract with Enterprise.
Last year when they supposedly turned the well on how did they produce gas for two days? With a hole in the pipeline, and no royalty payment. I asked for production records and they don't have any.
Marathon is just using this well to hold the lease, and avoid any plugging liability. They have been lying to OCD and the mineral interest owners like us (Roberson Minerals LLD)

If you could get it on the plugging list, due to environmental concerns, inactivity and lying to OCD it would be greatly appreciated.

Thanks as always,

Lee Roberson

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Friday, September 17, 2021 9:34 AM
To: Lee Roberson <Lee@hobbsanchor.com>
Cc: 'Mike Newell' <mnewell@newelllawnm.com>; Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

The situation at the Julius Fee has not materially changed. Marathon would still have to acquire some right of way before we could test and potentially tie the Julius Fee into our nearby inactive system and then into the DCP meter we have identified. Unfortunately, the owner of that property was inaccessible due to COVID restrictions at the nursing home where she resided, and has since passed away. At this time we are still waiting for her heirs to have administration of her estate so we can identify who will be able to execute a valid right of way over the property. Until that is resolved there are no other markets for gas from the Julius Fee. As such, since it is still on the Enterprise system, which is not taking gas, the well will have to remain shut in.

Sincerely,
Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, September 9, 2021 9:16 AM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Cc: 'Mike Newell' <mnewell@newelllawnm.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

I asked you on June 30, 2021 on a update about Marathon connecting this well to a new pipeline as you have previously disclosed. I have not heard from you? The price of natural gas is up what's the hold up after many years of your efforts to produce minerals that we own?

What's the status of production on the Julius Fee?

Lee Roberson
Roberson Minerals, LLC
Cell Phone
575-631-8270

From: Lee Roberson
Sent: Wednesday, June 30, 2021 7:23 AM
To: 'Rule, Clayton W. (MRO)' <cwrule@marathonoil.com>
Subject: FW: [External] RE: Julius Fee Shut In

Mr. Rule

Give me an update on the production of this well and the supposed hole in the pipeline? What efforts if any has

AMERICAN OVERSIGHT

Marathon undertaken to produce the minerals we own and entrusted you with.

Lee Roberson
Roberson Minerals, LLC
Cell phone
575-631-8270

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Tuesday, February 16, 2021 8:00 AM
To: Lee Roberson <Lee@hobbsanchor.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

I'm not sure what you're referencing, but there was nothing special about the timing. Without a market for gas from the well the leases states we'll make shut payments per the terms of the lease. There is no language in the lease requiring us to produce the well somehow each year, as that would run contrary to the fact that there is no viable sales line available.

I am not the one having those conversations with the field, or with enterprise, but will reach out to the appropriate folks within Marathon to see what we have.

Sincerely,
Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Friday, February 12, 2021 12:09 PM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Subject: FW: [External] RE: Julius Fee Shut In

Mr. Rule:

I am still waiting on the requested information?

Lee Roberson

From: Lee Roberson
Sent: Monday, January 25, 2021 12:59 PM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Subject: Re: [External] RE: Julius Fee Shut In

Mr. Rule:

It's all right and is suspicious with what Marathon is trying to do here. Marathon has not provided a copy of the Enterprise Contract and any emails with Enterprise such as notification of a hole in a pipeline, when the pipeline will be repaired etc.

It's amazing that just at the right time needed the well was produced 2 days.

Send me the production reports for those two days and, a copy of the Enterprise email information back and forth with Marathon and, a copy of the contract with Enterprise.

Unless you have some reason that you don't want me to see that information which I could not imagine, after all I (we) do own the minerals, not Marathon.

Again, it looks obviously that all Marathon is trying to do is hold the lease instead being put on the plug and abandon list with OCD.

Sincerely,

Lee Roberson

AMERICAN OVERSIGHT

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Monday, January 25, 2021 12:41 PM
To: Lee Roberson
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

I am waiting for my DO department to provide me with an exact figure for royalties that would have been due on any production sold prior to the last shut in. However, looking offhand I'm fairly certain the amount will be under $50. Marathon usually does not issue monthly royalty checks for amounts under $50, rather we accrue until funds amount to $50 or otherwise pay as required by State statute.

Sincerely,

Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Monday, January 25, 2021 1:17 PM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Subject: Re: [External] RE: Julius Fee Shut In

You did not answer all of my questions.

Sent from my iPhone

> On Jan 25, 2021, at 11:42 AM, Rule, Clayton W. (MRO) <cwrule@marathonoil.com> wrote:
>
> Mr. Roberson,
>
> The 2 days of production where from when we put the well back on production. You'll recall:
>
> The well was originally shut in during 2018 because Enterprise had a plant issue and could not process all of the gas they were receiving, so they shut in anybody under a contract that did not require them to take gas.
>
> In 2019 Enterprise resolved the plant issue and said they would start taking gas again, but had in the interim removed the meter that the Julius Fee ties into. We got them to eventually put a new meter in so we could tie the well back into their system. That would have been in June of 2020. With the meter back on we opened the well to sales, but determined in pretty short order that Enterprise's line had developed hole and had to shut the well back in.
>
> Enterprise has yet to repair the section of line with the hole, and that leaves us currently without a market for the gas from Julius Fee.
>
> As far as the water question, I'd have to check with my operations folks, but suspect any volume of water produced during the time the well was on in June was sent to the tank on location.

AMERICAN OVERSIGHT

Sincerely,

Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Monday, January 25, 2021 10:44 AM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

Here is the web site you forwarded me with production history on the Julius Fee #1 API 3001532532

Again I ask the questions below.

Additionally, I checked with personnel in the State of NM OCD office in Artesia, NM. They specifically told me that Marathon reported 2 days of production in June 2020 as you can also see on the report from the website provided.

Marathon should have production reports for these two days please send those production reports to me. Also, how is it that no water was produced for the same two days?

Sincerely,

Lee Roberson

From: Lee Roberson
Sent: Friday, January 22, 2021 2:22 PM
To: 'tcrule@marathonoil.com' <tcrule@marathonoil.com>
Subject: FW: [External] RE: Julius Fee Shut In

Mr. Rule:

I looked up the production that you reported via the web site you provided.

I have some questions:

How did you produce and market natural gas from this well into a pipeline with Enterprise when you previously stated that they would not take any gas and, had a hole in their pipeline.

AMERICAN OVERSIGHT

How did you do this for two days?

Where is the royalty check?

Looks to me this is noting but a ploy to hold the lease.

Sincerely,

Lee Roberson

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Friday, January 22, 2021 6:58 AM
To: Lee Roberson <Lee@hobbsanchor.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

I'm not terribly familiar with the Go Tech format (though looking at their site it does appear they are pulling from State data, and possibly other sources). Production data reported to the state can be found directly on the State's website at:

https://wwwapps.emnrd.state.nm.us/ocd/ocdpermitting/Data/Wells.aspx

The figures found there are the ones being reported to the State.

Sincerely,

Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, January 21, 2021 4:13 PM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

See attached go-tech report. Please confirm to me that the production records on the Julius Fee #1 for the period October 2018 to December 2020 are accurate?

Is this what has been reported to the State of New Mexico Oil Conservation Division?

Sincerely,

Lee Roberson

AMERICAN OVERSIGHT

From: Lee Roberson
Sent: Thursday, December 17, 2020 1:35 PM
To: 'Rule, Clayton W. (MRO)' <cwrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

Please forward me a copy of the agreement with Enterprise.

Lee

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Thursday, December 17, 2020 8:45 AM
To: Lee Roberson <Lee@hobbsanchor.com>; Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>
Cc: pbm@heidellaw.com; Hert, Randy J. (MRO) <rjhert@marathonoil.com>; Rice, Chase F. (MRO) <cfrice@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

Marathon has to acquire a couple hundred feet of right of way before we could tie our inactive system into the DCP meter we have identified. Unfortunately, the owner of that property was inaccessible due to COVID restrictions at the nursing home where she resided, and has since passed away. At this time we are waiting for her heirs to have administration of her estate so we can identify who will be able to execute a valid right of way over the property. Until that is resolved there are no other markets for gas from the Julius Fee. As such, since it is still on the Enterprise system, which is not taking gas, the well will have to remain shut in.

Sincerely,

Clayton

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, December 17, 2020 9:12 AM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>; Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>
Cc: pbm@heidellaw.com; Hert, Randy J. (MRO) <rjhert@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

Could you please give me a update on when the Julius Fee #1 will be paying on production?

Merry Christmas

AMERICAN OVERSIGHT

Lee Roberson

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Tuesday, September 8, 2020 1:07 PM
To: Lee Roberson <Lee@hobbsanchor.com>; Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>
Cc: pbm@heidellaw.com; Hert, Randy J. (MRO) <rjhert@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Roberson,

Please be advised that Marathon has most certainly not been "doing nothing" in regard to the Julius Fee. As you are aware the Julius Fee was originally shut in when Enterprise advised us on 8.29.2018 that they would no long accept gas under contract C1065. About two weeks later they actually locked the meters.

In June of 2019 Enterprise advised us that the capacity constraint had been resolved, that they would accept gas again, and that they would come by and unlock all of the previously effected meters. However, while working with Enterprise to coordinate the unlocking of the meters, we discovered that during the intervening period, while the well was shut it for market constraint, the meter that tied our system to theirs had been removed. We made a great number of attempts to get Enterprise to install a new meter; however, they took a long time to come out and perform that work.

That said, recently Enterprise did come out and install a new meter, and once the new meter was installed Marathon promptly put the Julius Fee to sales. Unfortunately, the well flowed for just a few hours before our operations staff noticed that the Enterprise portion of the sales line had developed a hole and was leaking, so we were forced to shut the well in again. We reached out to Enterprise about repairing their line, but they have advised they don't intend to complete that work anytime in the near future.

Consequently, Marathon has been working to identify an alternate sales line, and has located a suitable DCP system about a mile away. There is an inactive Marathon line that runs near the Julius Fee, and near the LACT meter for the DCP system, that we believe is stable and can handle the pressure from the Julius Fee. At this time we are working to hook up the Julius Fee to that system; negotiating with DCP to add the Julius, preparing permit applications, negotiating right of way with the owner of the surface at the DCP meter, surveying that route, reviewing the use history of the inactive line, and locating equipment for the Marathon side of the hook up. We anticipate all of that work will be done in the next couple of months, and with any luck we'll be able to put the Julius Fee to sales via that DCP system.

So, while maybe not as apparent as a workover rig sitting on location, there actually has been a lot of operations being performed by Marathon's marketing, regulatory, facilities, production, and land groups to attempt to locate a market for that well, and to get it back on production.

Sincerely,

Clayton

From: Lee Roberson <Lee@hobbsanchor.com>

AMERICAN OVERSIGHT

Sent: Tuesday, September 8, 2020 9:09 AM
To: Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>; Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Cc: pbm@heidellaw.com; Hert, Randy J. (MRO) <rjhert@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Good morning Mr. Hereden.

Here is the POA you addressed.

So now are you going to product the well or plug and abandon the well. To do nothing is not an option going forward.

Thanks,

Lee Roberson

From: Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>
Sent: Thursday, September 3, 2020 11:41 AM
To: Lee Roberson <Lee@hobbsanchor.com>; Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Cc: pbm@heidellaw.com; Hert, Randy J. (MRO) <rjhert@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Good afternoon Mr. Roberson,

Thank you for contacting me. I am sure there are many great memories on the land you and your family own.

I am cc'ing Clayton Rule, who is our Permian Land Supervisor for this well. He is out on vacation until next Tuesday but I'm going to forward this on to him now. He can address your requests when he returns to the office.

I am looking in our electronic files and I have confirmed with my DO analyst that we do not have a POA for your mother, Margaret McClure. Can you please forward that to me as well? I want to make sure we get that on file.

Clayton,

Mr. Roberson's mother is a royalty interest owner in the Julius Fee 1 well and we released a shut-in check in her name. Please see his requests below.

Thank you again for reaching out.

Thanks,

Kerry

<image001.png>

AMERICAN OVERSIGHT

Kerry L Hereden, CPLTA

Land Administration

5555 San Felipe Rd, Rm 3104 | Houston, TX 77056
W: (713) 296-3460

From: Lee Roberson <Lee@hobbsanchor.com>
Sent: Thursday, September 03, 2020 11:24 AM
To: Hereden, Kerry L. (MRO) <klhereden@marathonoil.com>
Cc: pbm@heidellaw.com
Subject: FW: [External] RE: Julius Fee Shut In

Dear Kerry:

Attached is correspondence concerning Shut in royalty concerning the Julius Fee #1 well. I have also included on this email our attorney Pat McMahon. As you can see from all of the email correspondence below I (we) have a unique understanding of this well as it is named after my (late) father Julius Roberson.

The well is located on the surface in which my family owned, farmed, lived, and I personally lived with very close proximity to our family home. This surface we owned for over 80 years. Thus, this being stated I know the Julius Fee #1 very well. The facts are this well is not economically viable to produce and does not produce sufficient oil or gas volumes to sale. Thus, the only reason Marathon Oil Company is submitting shut in royalty payments is to hold the lease. The fact is this well must be plugged and abandoned and the mineral lease released and returned to the owners of the minerals. We have requested from Marathon Oil Company a copy of the contract agreement with Enterprise Pipeline. Marathon Oil Company in the past has refused to forward a copy of the contract to us. Again, I request an copy of the Enterprise contract concerning this well. In the alternative there are numerous wells and other pipelines in the area. If this well were economically viable, Marathon Oil Company would connect to these pipelines, obviously Marathon has neglected to do so.

As you can see in your records Margaret McClure is my mother and she owns a ½ life estate interest in the mineral income produced from this well. The minerals are owned by Roberson Minerals, LLC which I am the Managing Member thereof, additionally Roberson Minerals receives the other ½ mineral income from this property with the exception of a fractional interest formally owned by my brother Jeff Roberson who sold his share to MRC Permian aka Matador Petroleum.

You need to direct any further correspondence for Margaret McClure, who happens to be a elderly 84 year old lady to me. You should have my information in your file. If not below will be my contact information. Marathon Oil Company previously attempted to escheat the $40 shut in payment to the State of New Mexico. This is not acceptable in that payment is an attempt to fraudulently keep the mineral lease in force, we have been holding these checks and they are not unclaimed or abandoned.

AMERICAN OVERSIGHT

We immediately demand that Marathon Oil Company place this well on the plug and abandon schedule, produce this well to provide the mineral owners revenue or release the mineral lease. We also demand that you do not forward any shut in royalty payment to the State of New Mexico for either Margaret McClure of Roberson Minerals, LLC pending conclusion of this conflict. If you cannot do this, notify me and our attorney.

Sincerely,

Lee Roberson

Roberson Minerals, LLC

Managing Member

PO Box 6065

Hobbs, NM 88241

Email: lee@hobbsanchor.com

Cell phone: 575-631-8270

Pat McMahon, attorney at law

311 N. 1st Street

Lovington, NM 88260

From: Lee Roberson
Sent: Friday, April 10, 2020 10:42 AM
To: 'pbm@heidellaw.com' <pbm@heidellaw.com>
Subject: FW: [External] RE: Julius Fee Shut In

Pat:

This is correspondence I have had with Marathon.

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Thursday, November 28, 2019 6:56 AM
To: Lee Roberson <tlcroberson@windstream.net>
Cc: mnewell@newelllawnm.com; Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

AMERICAN OVERSIGHT

Mr. Roberson,

I apologize for the spelling error.

Attached you'll find a copy of the 8.29.2018 email from Enterprise notifying us that they would no long accept gas under contract C1065. About two weeks later they actually locked the meters.

In June of 2019 Enterprise advised us that the capacity constraint had been resolved, that they would accept gas again, and that they would come by and unlock all of the previously effected meters. However, while working with Enterprise to coordinate the unlocking of the meters, we discovered that during the intervening period, while the well was shut it for market constraint, the meter that tied our system to theirs had been removed. We have since made numerous attempts to get Enterprise to install a new meter; however, they have yet to come out to perform that work. Consequently, we are unable to get gas from that well to market, and the well remains shut in.

As far as a copy of the C1065 contract, I'll have to inquire with gas marketing about a copy. However, I can tell you that virtually all of those contracts contain confidentiality language that prohibits us from disclosing them to 3rd parties.

Sincerely,

Clayton

From: Lee Roberson <tlcroberson@windstream.net>
Sent: Monday, November 11, 2019 3:56 PM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Cc: mnewell@newelllawnm.com; Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Rule:

My name is Lee Roberson not Lee Robertson.

Again, I have asked Marathon to provide formal documentation from Enterprise to Marathon that Enterprise would no longer accept gas on the Julius Fee #1 under contract number C1065.

It was my understanding that Enterprise NGL downstream capacity was full and they were cutting IT customers.

You have stated previously and today that you are waiting on Enterprise to install a custody transfer meter?

Please provide a copy of the contract number C1065, we are the owners of these minerals and are entitled to this information have asked for this information and have not received it.

Thank you

AMERICAN OVERSIGHT

Lee Roberson

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Monday, November 11, 2019 10:07 AM
To: Lee Roberson <tlcroberson@windstream.net>
Cc: mnewell@newelllawnm.com; Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Subject: RE: [External] RE: Julius Fee Shut In

Mr. Robertson,

The check you provided was issued as a result of prior period adjustments made for periods from 7.2017 until we were required to shut the well in during 9.2018 production.

These adjustments were caused by some ownership maintenance that has been going on in our Division Order and Production Revenue Accounting groups. When they reprocessed the well after the maintenance certain owners ended up with a balance of a couple of cents due to rounding that occurs in the system.

To be clear, this check was issued solely as the result of an accounting rebook, the status of the well has not changed. No production has been had, and the well is still shut in, as allowed under the lease, because Enterprise has still not installed the custody transfer meter necessary for us to return this well to production.

Sincerely,

Clayton

From: Lee Roberson <tlcroberson@windstream.net>
Sent: Friday, November 8, 2019 8:53 AM
To: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Cc: mnewell@newelllawnm.com; Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Subject: [External] RE: Julius Fee Shut In

Beware of links/attachments.

Mr. Rule

Could you please explain the attached royalty statement my Mother Margaret McClure received for .04 cents, and why this is a productive well. Additionally, since this is such a viable well could you please tell me

Where the royalty check is for Roberson Minerals LLC? Respectfully sir this well is named after my deceased father Julius Roberson. I know much about this prospect, and it is obviously not viable. I either ask that

Marathon release this lease in terms of the lease agreement or I will have to proceed with further action to have that accomplished.

I look forward to your response.

AMERICAN OVERSIGHT

Sincerely,

Lee Roberson

Representative for Margaret McClure (Roberson)

Roberson Minerals, LLC

Managing Member

From: Rule, Clayton W. (MRO) <cwrule@marathonoil.com>
Sent: Friday, September 6, 2019 5:38 AM
To: tlcroberson@windstream.net
Cc: mnewell@newelllawnm.com; Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Subject: Julius Fee Shut In

Mr. Roberson,

Good morning. Travis Rule forwarded me your email containing questions regarding our recent payment of shut in royalties in the Julius Fee well In Eddy County, New Mexico. I'm the Landman for this area and would be happy to provide you with some context:

On August 29, 2018 Marathon received notice from Enterprise Products Operating LLC's commercial representative that they would no longer be able to accept volumes under our contract number C1065. Enterprise stated that their downstream NGL capacity was full at that that time, and that they were going to shut in a number of other similarly situated customers. On September 5, 2018 Marathon complied with the notice and began shutting in all of the required wells, eventually including the Julius Fee No 1. At that time Marathon made all necessary shut in payments, as allowed for under the terms of the leases tied to impacted wells, in order to maintain our leasehold during the shut in period.

On June 20, 2019 Enterprise provided Marathon notice that they now had sufficient capacity to start taking our production under contract C1065 again. Upon receipt of the notice Marathon immediately began operations to bring the shut in wells back to production. However, by July 16th Marathon and Enterprise had determined that several of wells, including the Julius Fee, were connected to a line that feeds a custody transfer meter that had been removed during the shut in period. Enterprise advised that they would install a new meter, but that they were unable to provide a firm timeline for when that work could take place. Consequently, Marathon went ahead and made a second round of shut in payments for the wells impacted by Enterprise's ongoing inability to take our production. Those are the checks you recently received.

We are currently waiting for Enterprise to replace their meter. Once they have done so we intend to bring the Julius Fee 1 well back onto production in accordance with the terms of the lease(s).

Sincerely,

Clayton Rule, CPL

Land Supervisor

Marathon Oil Company

AMERICAN OVERSIGHT

From: Lee Roberson <tlcroberson@windstream.net>
Sent: Wednesday, August 14, 2019 10:15 AM
To: Rule, Travis C. (MRO) <tcrule@marathonoil.com>
Cc: mnewell@newelllawnm.com
Subject: [External] Shut in

Beware of links/attachments.

Mr. Rule:

Attached are two letters on shut in payments on the Julius Fee #1 in Eddy County, New Mexico.

The Julius Fee #1 is named after my father Julius Roberson, Jr. (deceased) and is on family land that we owned for over 80 years.

Margaret McClure is my mother and the Roberson Minerals, LLC own the mineral interest with Margaret McClure having a life estate.

I personally am actively engaged in the oil and gas business in Southeastern New Mexico.

I tell you all of this because your letter states “Please accept this letter as notice that Marathon, as operator, has shut-in the subject well impacted by the loss of access the Enterprise sales line.”

I do not believe this is an accurate statement.

I believe that Marathon has shut in the well because the well is not economical to produce, the well has watered in and, the formation that the well was completed in is not economical at current natural gas prices and, probably depleted.

I know this because as I stated earlier this well is on land that was owned by the family the well is next to the house I grew up in and on the family farm.

I have watched the well closely, over all these years talked to previous personnel who pump the well. This well was drilled by Nadel & Gussman, acquired by BC Operating and then acquired by Marathon. I have seen the well leaking salt water, methane, and gas from the well head.

I also have seen the metering of the well which produced zero if any natural gas and zero oil.

Consequently, I believe that Marathon has shut in the well due to economic and production reasons and to hold the lease agreements with us and other mineral owners, not due to Enterprise infrastructure constraints.

Additionally, we have other mineral interest in the area with wells that have been drilled by other companies that produce natural gas which is being accepted, sold and paid for.

Last year I asked that Marathon to produce formal written documentation that Enterprise refuses to accept gas from this well. Again, this year I am asking Marathon to do the same as I have not seen the requested information since last year’s request. I also asked that Marathon produce the formal written contract with Enterprise that disclosed any issue of natural gas production and or acceptance. Again, I have not seen the formal written contract.

Please provide the formal written documentation and contract that Enterprises refuses to accept gas from this well and, please provide formal documentation that this well is capable of producing hydrocarbons. I know you have to provide documentation to the NM OCD that this is a viable

AMERICAN OVERSIGHT

well or plug and abandon the well. Otherwise, re-complete the well to a economical producing well or, plug and abandon the well and release the leasehold or, drill new wells into on the lease. We as minerals owners insist that you produce the minerals. A $40 shut in royalty

check is not acceptable as oil and gas drilling and completion, production and revenue in this area of Eddy County New Mexico is at the largest and highest rate ever in history.

You can see I copied our attorney on this correspondence. This well has a long history, has not produced viable hydrocarbons for a long time and for it to exist in perpetuity to hold a lease will not be tolerated by myself or other mineral owners in the area. Marathon has had more than enough time to perform on this lease. Additionally, I am a shareholder of Marathon and have been for quite some time now and as a shareholder I would ask that you produce this lease.

I look forward to your response.

Sincerely,

Lee Roberson

Roberson Minerals, LLC

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, May 13, 2022 3:07 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: [EXTERNAL] Re: Inspector Forum

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Thank you for the heads up. Brandon reached out to me yesterday.

Chair of Resolutions is Larry Bengal.

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From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, May 13, 2022 1:43:53 PM
To: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Inspector Forum

Good Afternoon-

Unfortunately Brandon Powell is now sick and won't be able to make it to the inspector forum. We will still have Monica Kuehling and Gilbert Cordero there, but Brandon was the one who we had designated through IOGCC.

On a different note, who is the chair of the Resolutions committee?

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

AMERICAN OVERSIGHT

From: Andrea Arrey <Andrea_Arrey@eogresources.com>
Sent: Tuesday, May 17, 2022 2:09 PM EDT
To: Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: [EXTERNAL] RE: March C-115 Gas Lift Reporting
Attachment(s): "image001.jpg"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Thank you for the response and the additional insight. We are using that insight to evaluate historical production reports.

The March C115 has been submitted with the appropriate gas lift volumes. We are now waiting on the NMOCD approval. Apologies for the delay in reporting.

status: [Submitted]

	Permit ID	Type	Permit Description	Locked By	Last Open By	
	316999	[C-115] EP Production Monthly Report	EOG RESOURCES I [7377] 03/2022		colbywelch	5/17

Thank you,

Andrea Arrey
Manager, Prod Acctg.
EOG Resources - Midland Div.
Mobile (575) 200-6451
Andrea_Arrey@eogresources.com

From: Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
Sent: Tuesday, May 17, 2022 9:14 AM
To: Andrea Arrey <Andrea_Arrey@eogresources.com>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: March C-115 Gas Lift Reporting

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Operator,

The OCD requires operators to submit monthly production volumes and associated dispositions on the C-115 report. There are no known circumstances that warrant an extension of or relief from this requirement. It is also the operator's responsibility to amend all C-115's when an error is found.

Due to the changes made to gas lift system reporting and the associated system errors due to deficiencies in Operator's production accounting systems, Operator may temporarily submit C-115's omitting the gas lift volumes. Upon updates to the production accounting systems, Operator is required going to report gas lift volumes as directed by OCD and to amend prior C-115's to reflect gas lift volumes as soon as possible.

This does not exempt the operator from filling a C-115 for any well, nor does it allow operators to stop tracking gas lift volumes. The operator must continue to track gas lift volumes and make them available upon division request.

Please provide the following information to the OCD within one business day:
- OGRID
- Operator Name
- Estimated time to correct internal C-115 reporting
- Average Gas lift volume per month

Thank you,

Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

From: Andrea Arrey <Andrea_Arrey@eogresources.com>
Sent: Monday, May 16, 2022 11:02 AM
To: ocd.engineering@state.nm.us; Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
Cc: Brenda Dellinger <Brenda_Dellinger@eogresources.com>; Bustamante, Amalia, EMNRD <Amalia.Bustamante@state.nm.us>
Subject: [EXTERNAL] RE: EOG C115

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good Morning,

We are still experiencing issues with reporting. We have been unable to submit our March C115 due to gas lift volumes changes. We are working with our software company and working through the data manually.

We appreciate any guidance or assistance the State may have to offer.

Thank you,

Andrea Arrey
Manager, Prod Acctg.
EOG Resources - Midland Div.
Mobile (575) 200-6451
Andrea_Arrey@eogresources.com

From: Andrea Arrey
Sent: Friday, May 13, 2022 2:51 PM
To: 'ocd.engineering@state.nm.us' <ocd.engineering@state.nm.us>
Cc: Sarah Mitchell <Sarah_Mitchell@eogresources.com>; Brenda Dellinger <Brenda_Dellinger@eogresources.com>
Subject: EOG C115

Good Afternoon,

We are experiencing errors while trying to submit the 03-2022 C115. We are working with our reporting software to resolve these issues and wanted to understand what solution the OCD had available, if any, in the event we are unable to resolve the system issues on our end before 5/15/2022.

Thank you so much for the help.

Andrea Arrey
Manager, Prod Acctg.
EOG Resources - Midland Div.
Mobile (575) 200-6451

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Andrea_Arrey@eogresources.com

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From: Virginia Hullinger <Virginia.Hullinger@occ.ok.gov>
Sent: Tuesday, May 17, 2022 7:09 AM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>; Nick Tew <ntew@gsa.state.al.us>; Jeremy Price <jeremy.price@alaska.gov>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman (r.hoffman@kcc.ks.gov) <r.hoffman@kcc.ks.gov>; John Adams <johnny.adams@la.gov>; Molly Michaelson <molly.michaelson@maryland.gov>; Adam Wygant <wyganta@michigan.gov>; Jess New <jnew@ogb.state.ms.us>; Jim Halvorson <jhalvorson@mt.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; danny.sorrells@rrc.texas.gov <danny.sorrells@rrc.texas.gov>; John Baza <johnbaza@utah.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>; Skorupa, James <phil.skorupa@energy.virginia.gov>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Adam Peltz <apeltz@edf.org>; Brian.woodard <Brian.woodard@chk.com>; Craig Smith <csmith@crowleyfleck.com>; Dan Yates <dyates@gwpc.org>; Dan Seamount <dan.seamount@alaska.gov>; David Blackmon <david.blackmon@dbenergyadvisors.com>; David Sykuta <illinois@api.org>; Doug Dashiell <ddashiell@scottdoug.com>; Eileen Dey <eileen.d.dey@gmail.com>; ericmahroum@gmail.com <ericmahroum@gmail.com>; Davis, Nathan <nathan.davis@nd.gov>; gbloom <gbloom@slo.state.nm.us>; Jeff Herman <Jherman@petrohunt.com>; Jennifer Hoffman <jennifer.hoffman@hhenergyco.com>; Kimberly Anne Doane <kim.doane@novascotia.ca>; Mariah Rodriguez <srodriguez@texaspolicy.com>; Marjorie McKeithen <mmckeithen@joneswalker.com>; Mollie Schall <mollie.schall@crestwoodlp.com>; Pary Shofner <paryshofner@yahoo.com>; Patrick Padilla <patrick_padilla@eogresources.com>; Reice Haase <rhaase@nd.gov>; Robert Harms <robert@harmsgroup.net>; Scott Anderson <sanderson@edf.org>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Tom Sellers <tnsatx@gmail.com>; Zac Weis <zaweis@marathonoil.com>
CC: Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; David Hardie (david.hardie@aer.ca) <david.hardie@aer.ca>; Ines Piccinino <ines.piccinino@bcogc.ca>
Subject: [EXTERNAL] Re: Mark your Calendars - Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials

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From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Thursday, May 12, 2022 3:14:42 PM
To: Nick Tew <ntew@gsa.state.al.us>; Jeremy Price <jeremy.price@alaska.gov>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman (r.hoffman@kcc.ks.gov) <r.hoffman@kcc.ks.gov>; John Adams <johnny.adams@la.gov>; Molly Michaelson <molly.michaelson@maryland.gov>; Adam Wygant <wyganta@michigan.gov>; Jess New <jnew@ogb.state.ms.us>; Jim Halvorson <jhalvorson@mt.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; danny.sorrells@rrc.texas.gov <danny.sorrells@rrc.texas.gov>; John Baza <johnbaza@utah.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>; Skorupa, James <phil.skorupa@energy.virginia.gov>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Adam Peltz <apeltz@edf.org>; Brian.woodard <Brian.woodard@chk.com>; Craig Smith <csmith@crowleyfleck.com>; Dan Yates <dyates@gwpc.org>; Dan Seamount <dan.seamount@alaska.gov>; David Blackmon <david.blackmon@dbenergyadvisors.com>; David Sykuta <illinois@api.org>; Doug Dashiell <ddashiell@scottdoug.com>; Eileen Dey <eileen.d.dey@gmail.com>; ericmahroum@gmail.com <ericmahroum@gmail.com>; Davis, Nathan <nathan.davis@nd.gov>; Greg B. Bloom <gbloom@slo.state.nm.us>; Jeff Herman <Jherman@petrohunt.com>; Jennifer Hoffman <jennifer.hoffman@hhenergyco.com>; Kimberly Anne Doane <kim.doane@novascotia.ca>; Mariah Rodriguez <srodriguez@texaspolicy.com>; Marjorie McKeithen <mmckeithen@joneswalker.com>; Mollie Schall <mollie.schall@crestwoodlp.com>; Pary Shofner <paryshofner@yahoo.com>; Patrick Padilla <patrick_padilla@eogresources.com>; Reice Haase <rhaase@nd.gov>; Robert Harms <robert@harmsgroup.net>; Scott Anderson <sanderson@edf.org>; Todd Leahy <Todd.Leahy@state.nm.us>; Tom Sellers <tnsatx@gmail.com>; Zac Weis <zaweis@marathonoil.com>
Cc: Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; David Hardie (david.hardie@aer.ca) <david.hardie@aer.ca>; Ines Piccinino <ines.piccinino@bcogc.ca>; Virginia Hullinger <Virginia.Hullinger@occ.ok.gov>
Subject: [EXTERNAL] Mark your Calendars - Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials

Hello, Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials Members.

We are looking forward to seeing everyone at the 2022 Annual Business Meeting in Oklahoma City, Oklahoma! The members of the Public, Coastal and Tribal Lands Committee and Council of Regulatory Officials (CRO) will be discussing

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important topics at the Annual Business Meeting on **Tuesday, May 17th from 8:30am-10:00am CT**.

The Council of Regulatory Officials will join the Public, Coastal, and Tribals Lands Committee at this meeting. After introductory remarks and a welcome to our new Vice-Chair, Ines Piccinino, the committee will then hold a roundtable to discuss intergovernmental coordination on orphan well plugging under the Infrastructure Investment and Jobs Act (IIJA). This roundtable will focus on the interface between IIJA plugging activities on private, state, federal and tribal lands.

There will be a virtual option available to members who are unable to attend in person. To register for the ZOOM session, click **here**.

If you have not registered for the Annual Business Meeting, please click**here** to register.

Click **here** to view the full agenda for the 2022 IOGCC Annual Business Meeting.

Thank you and see you all in Oklahoma City!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, March 01, 2022 7:59 PM EST
Subject: [EXTERNAL] RE: Passing of Tom Richmond
Attachment(s): "Tammi's Tribute to Tom Flathead Beacon 2 23 2022.JPG"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Jim Halvorson shared this touching tribute to Tom with us.

From: Lori Wrotenbery
Sent: Thursday, February 17, 2022 4:12 PM
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Passing of Tom Richmond

Dear IOGCC Official and Associate Official Representatives and Oil and Gas Directors,

I am sad to report that Tom Richmond, Montana's Official Representative, passed away earlier this week after a brief battle with pancreatic cancer. We will miss his knowledge, experience, and dedication, and most especially his wit. We are grateful to have enjoyed his company at our recent meetings in Colorado Springs and Santa Fe.

Below are links to an article about Tom in the Billings Gazette and a page describing a scholarship established in Tom's honor at the Montana Technological University. We have donated to the scholarship fund on behalf of IOGCC's members and staff.

Sincerely,
Lori

https://billingsgazette.com/news/state-and-regional/tom-richmond-former-billings-area-legislator-and-energy-expert-dies/article_8c40cadb-cb94-5e56-8e7c-66fe89522fd5.html

Montana Technological University | Tom Richmond Memorial Endowed Scholarship (mtech.edu)

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REALITY CHECK TAMMI FISHER

A STATESMAN WORTH HONORING

MY UNCLE TOMMY DIED THIS WEEK. HE and I weren't close, but we had mutual respect and admiration for one another. We were unicorns in our family, the two lone Republicans descended from staunch Democrats. Uncle Tom was a quiet guy who worked tirelessly to make Montana a better state. He was a lifelong public servant, and even after retirement, he devoted his time to serving Montana in the Legislature. I didn't know his accomplishments as Tom never bragged, never boasted, and most certainly didn't seek notoriety. I learned of his achievements through his colleagues in the Legislature and from folks in "high up" positions in the oil and gas industry. To this day, his only sibling, my mother, doesn't know the impact of Tom's work. I suppose this was by design, as Tom didn't feel like what he did for the state was out of the ordinary, even though his work was extraordinary.

Uncle Tom was the first in our family to go to college, and despite their disdain for Tom's politics, my grandparents were so proud of Tom's intellect and educational pursuits. The only time my grandparents had a mortgage was when they sent Tom to Montana Tech. They felt they had achieved the American dream by sending Tom to college, and their investment produced enormous returns for our state. Tom used his education as a petroleum engineer and his dynamite whit to build coalitions that created public policy supportive of responsible stewardship of Montana oil and gas resources. His work earned him a "Distinguished Alumni" award from Montana Tech. According to the Billings Gazette, "Few people were as involved in shaping Montana's energy policy as [Tom] Richmond." Tom was a 30-year employee of the Montana Board of Oil and Gas Conservation, and he also served on the Groundwater Protection Council for 15 years. As a legislator, he helped shape the state's disclosure laws for chemicals used in hydraulic fracturing of oil wells. Tom was persistent and confident in his research and opinions, yet when he encountered barriers to his work, he would simply pivot and continue to quietly persuade his skeptics. He was by all accounts a true statesman, referred to as a "work horse, not a show horse" by his colleagues.

Tom was diagnosed with terminal cancer about a month ago. I regret not telling him how much I admired him and proud to be his niece. When Tom reflected on his life's work, I hope he found peace knowing he left Montana a better place than he found it. We would all benefit if every legislator followed Tom's approach to public policy. RIP, Uncle Tommy.

Tammi Fisher is an attorney, former mayor of Kalispell and host of Montana Values Podcast.

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From: Comiskey, Cody <cody.comiskey@chevron.com>
Sent: Friday, May 13, 2022 3:14 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] RE: Proposed Times in Aug

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Adrienne – I will get with the group and either Stefan or myself will get back you with a date.

Thank you again to you and your staff for the meeting this week.

Have a great weekend.

-Cody

Cody.comiskey@chevron.com
Phone 806-544-3161

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Thursday, May 12, 2022 15:45
To: Comiskey, Cody <cody.comiskey@chevron.com>
Subject: [**EXTERNAL**] Proposed Times in Aug

Be aware this external email contains an attachment and/or link.
Ensure the email and contents are expected. If there are concerns, please submit suspicious messages to the Cyber Intelligence Center using the Report Phishing button.

Hi Cody-

Below are some proposed time blocks in August, let me know what works and I can send out an invite.

Aug 2nd: 1-3
Aug 16th: 1-3
Aug 17th: 1-3
Aug 19th: 9-11
Aug 23rd:1-3
Aug 24th: 9-11, 1-3
Aug 26th: 9-11

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

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From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Wednesday, May 11, 2022 1:17 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] RE: Registration

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Hi Adrienne,

That's not a problem at all. I can refund Todd's ticket, however, Eventbrite charges a service fee for every ticket purchased ($27.10), so I can refund the ticket minus the service fee if that works for you.

Thanks,
Kaitlyn

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Wednesday, May 11, 2022 11:17 AM
To: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: Registration

Hi Kaitlyn-

Unfortunately Deputy Secretary Leahy had a conflict come up last minute and won't be able to attend now. Not sure it's possible but figured I would ask, are there any refunds for registrations that aren't used?

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

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From: Comiskey, Cody <cody.comiskey@chevron.com>
Sent: Monday, March 14, 2022 6:46 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; dylan.fuge@stane.nm.us <dylan.fuge@stane.nm.us>
Subject: [EXTERNAL] RE: Seismic Response Protocol
Attachment(s): "Follow_Up_NMOCD_March2022.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

All – thank you again for the time today, great discussion!

I have attached the slides we went over today, the TRRC endorsement of the N. Culberson / Reeves operator led response plan (OLRP)
- TRRC seismicity response (https://www.rrc.texas.gov/oil-and-gas/applications-and-permits/injection-storage-permits/oil-and-gas-waste-disposal/injection-disposal-permit-procedures/seismicity-review/seismicity-response/)
- Northern Culberson / Reeves OLRP (https://www.rrc.texas.gov/media/hc5jvpwu/ncr-sra-olrp_final_web.pdf) –
And I would be happy to discuss this in more detail anytime. Was a great effort amongst industry and TRRC on putting this together.

Finally, I have also attached a recent paper from CISR (UT – Austin) on deep, basement rooted faults in the Delaware Basin of NM and TX (https://reader.elsevier.com/reader/sd/pii/S0191814121000845?token=400A7A74967CAC730ACCDE26BD013E7FFBC4417886D44EFDA326A7990B2EA74D249AB98CDF8E98459D2421BB047764E7&originRegion=us-east-1&originCreation=20220314223727) this research was supported by the CISR research consortium. It notes updated work looking at stress states in the Delaware Basin, how stress states play a huge role in fault kinematics and acts as a good review of the current pore pressure perturbations modeled for fault stability in different zones. Happy to discuss further as well. But work like this is really important when trying to model and understand disposal related seismicity and is being incorporated in out the county line response.

Thank you again. Please don't hesitate to reach out.

-Cody

Cody.comiskey@chevron.com
Phone 806-544-3161

-----Original Appointment-----
From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, February 25, 2022 16:22
To: Sandoval, Adrienne, EMNRD; Polak, Tiffany, EMNRD; Powell, Brandon, EMNRD; Fuge, Dylan , EMNRD; Tremaine, Jesse K, EMNRD; matthias.sayer@nglep.com
Cc: Doug White; Hussenoeder, Stefan; Jessica High; Doug Klepacki; Nick Hines; rick.johnston@swbell.net; Comiskey, Cody; Tim Harrington; Christian Holcomb; Michael Reitz; Mathews, Gregory S.; Dula, Lee M; Verner, Frederick C; Martin, Jacob; Winn, Lisa; John C Webb; Langton, David
Subject: Seismic Response Protocol
When: Monday, March 14, 2022 3:00 PM-4:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: 1220 S. St Francis (third floor)

Be aware this external email contains an attachment and/or link.
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Operator Follow-Up with OCD on County Line Seismicity

March 14, 2022

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Agenda

- Operator & OCD response
- Update on County Line seismicity
- Proposed next steps

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County Line Response Timeline

Event	Action/Result	Response Plan In Place
2020: Two ML2.5+ events in area		
3/19/2021: ML3.4 event in area	Inter-operator & OCD-operator discussions	Ad-hoc
7/19: ML4.0 event in area	Response Group formed & nearest well shut in	
8/15: ML3.2 event near ML4.0	Discussed at upcoming OCD meeting	Operator-Led Response Plan
8/18: Meeting with OCD (Santa Fe)	OCD revisions to proposed operator response	
9/13: Meeting with OCD (Zoom)	No further revisions requested by OCD	
9/21: ML3.2 event near ML4.0	Second nearest well shut in per response plan	
11/23: OCD Protocol issued	Result of industry-OCD collaboration Oct-Nov	
1/6/2022: CL ISA letters Issued	Issued to SWD operators within 10 mi. of seismicity	
1/6 – 1/28: Period of clarification	Sought clarity on expected operational response	
1/28: OCD response letter	Advised adherence to OCD response protocol	OCD
1/28 onward: Curtailment implementations	All deep SWD operators in compliance with rate reductions	

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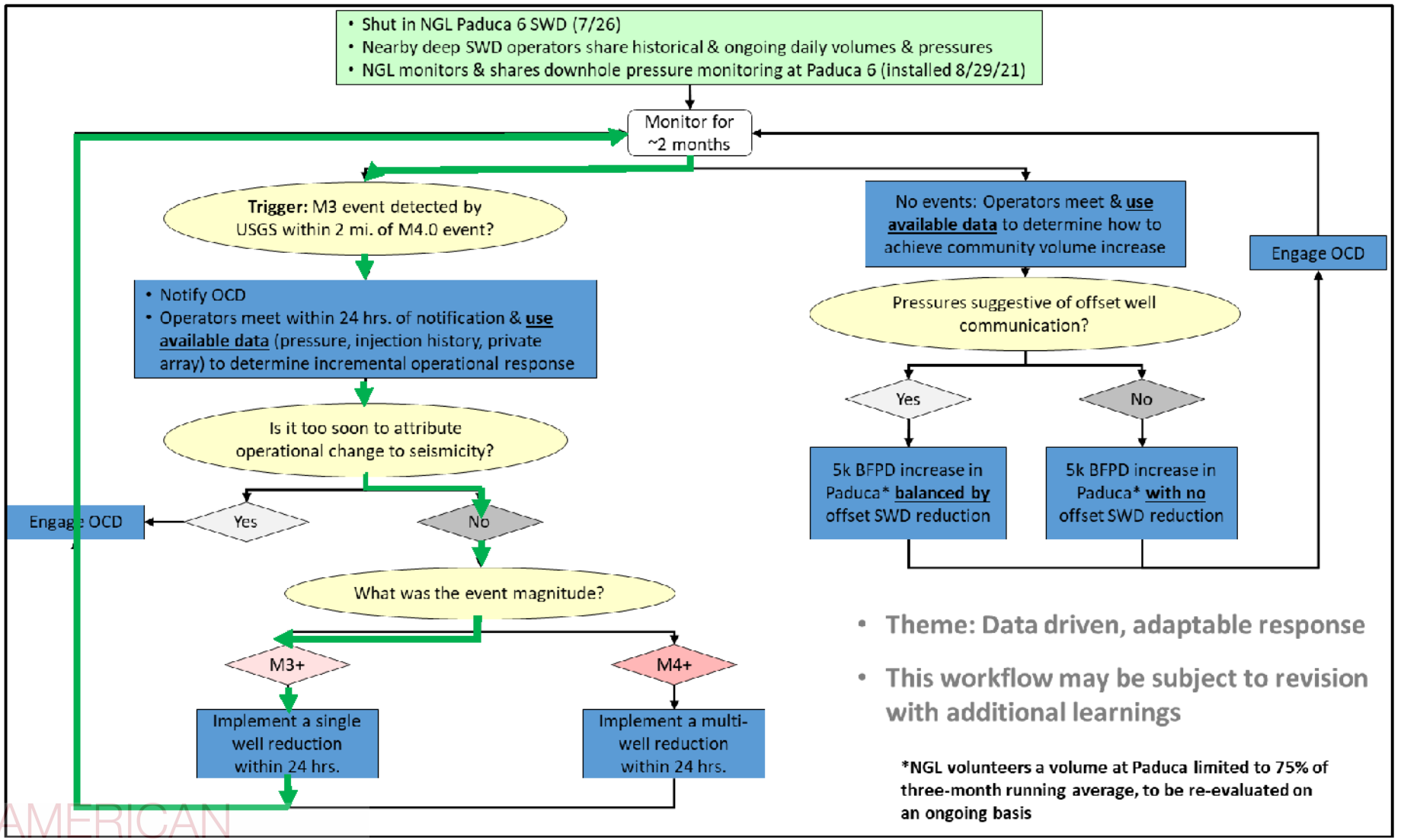
Operator-Led Response Tree



Currently operating under NMOCD Seismicity Response

- NGL Paduca well shut-in almost immediately
- Response tree developed by 8/18 and finalized with OCD feedback on 9/13
- In effect the first several months, while working with OCD on state-wide response protocol
- Left side triggered once, with ML3.5 on 9/21/2021, resulting in Mewbourne Red Hills well shut-in

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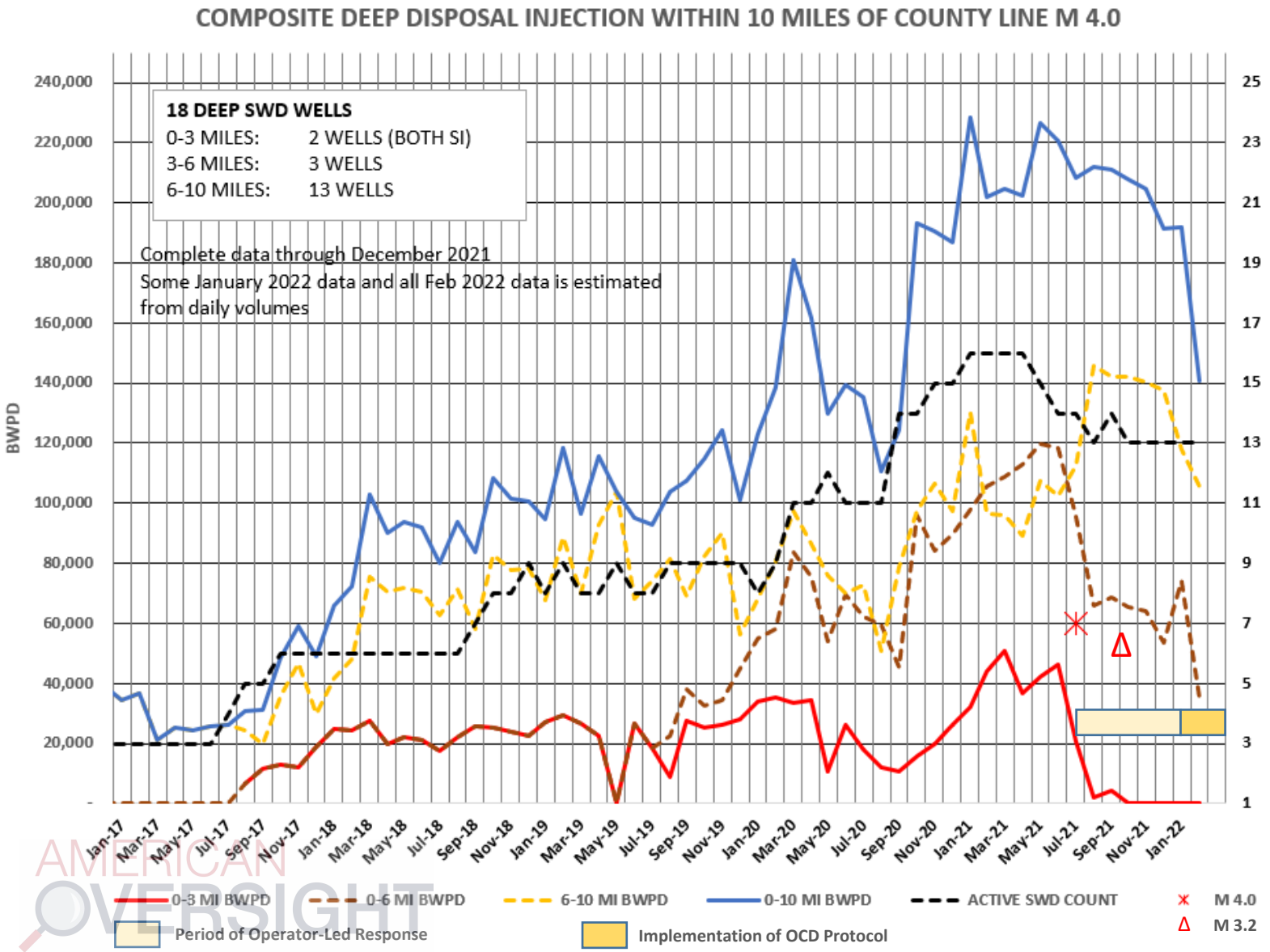
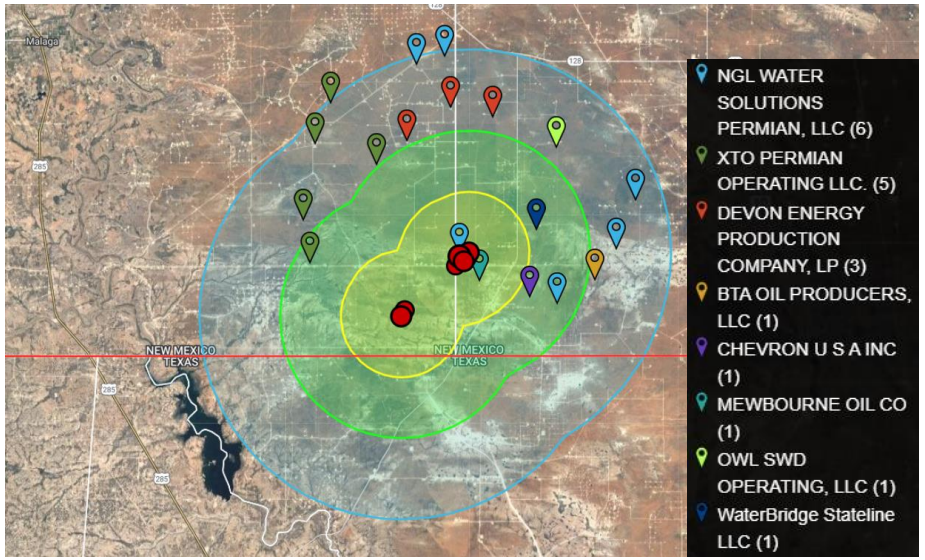
OCD Induced Seismicity Response Protocol



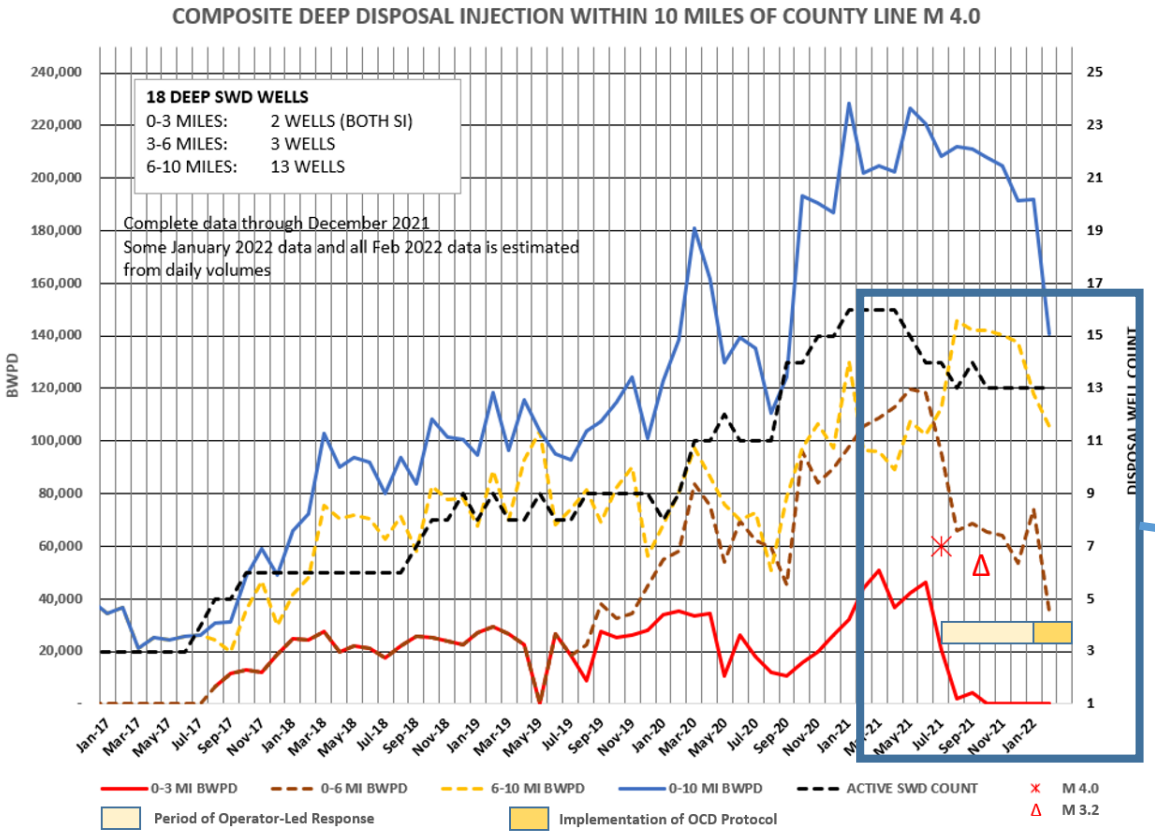


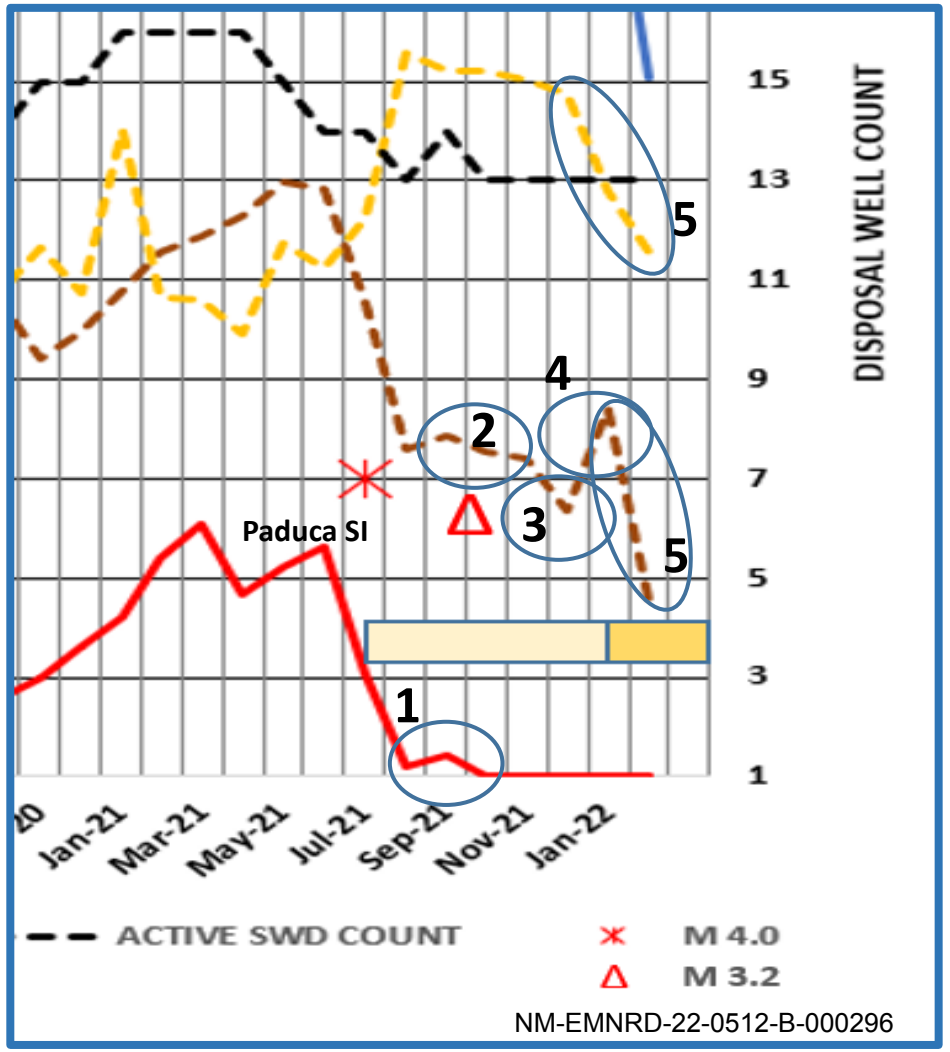
Map of deep SWD wells within 10 miles of M4.0 event
AOI's from NMOCD
EQ data from USGS

- Total bbl reduction within 10 miles ~ 70,000 bbls / day
- Deep SWD wells within 10 mi. radius in compliance with OCD rate reduction protocol

NM-EMNRD-22-0512-B-000295

OCD Induced Seismicity Response Protocol – Detailed Actions





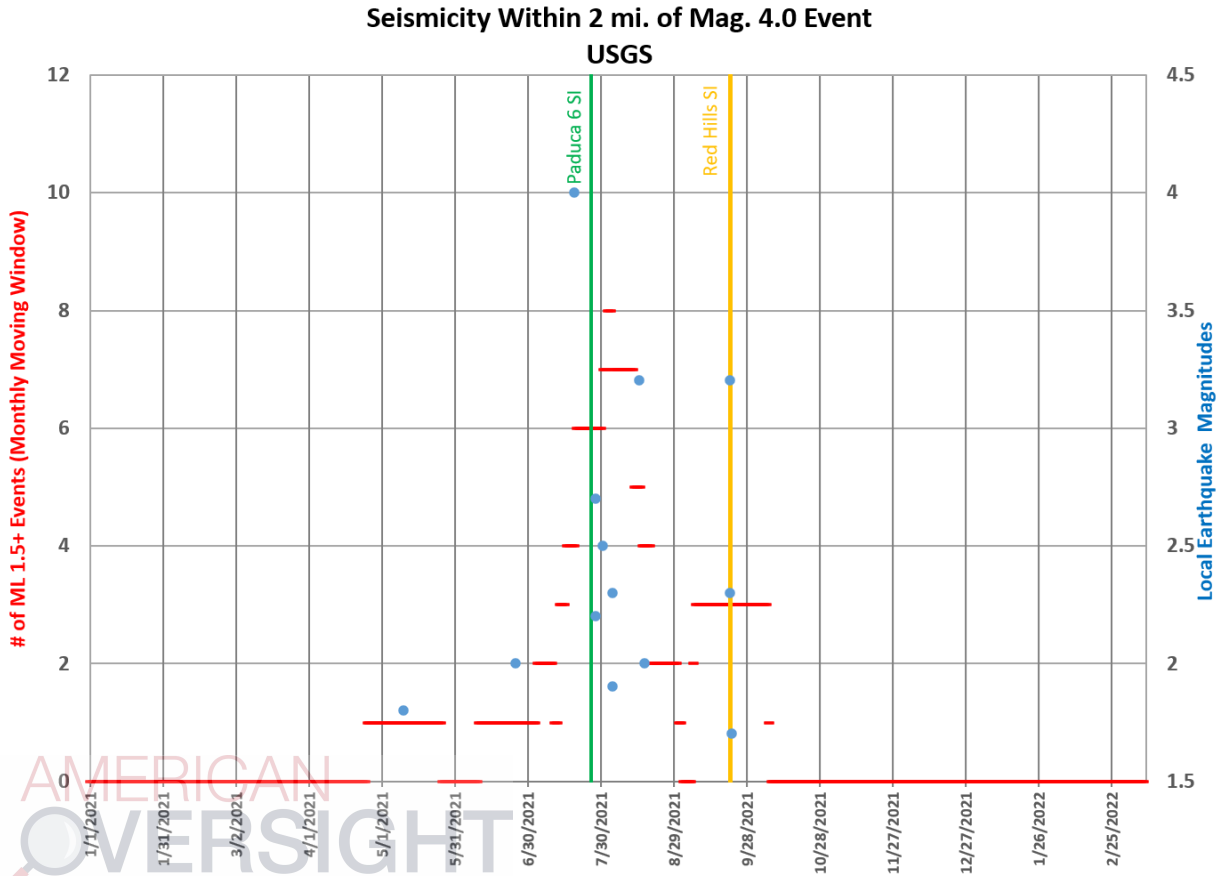
Operator Actions:

1. Red Hills Test & Shut In (SI)
2. Monsoon curtailment (10K bbls / day)
3. Maelstrom SI (30 – days – 25K bbls / day)
4. Maelstrom pulse test
5. OCD Protocol Implemented

AMERICAN OVERSIGHT

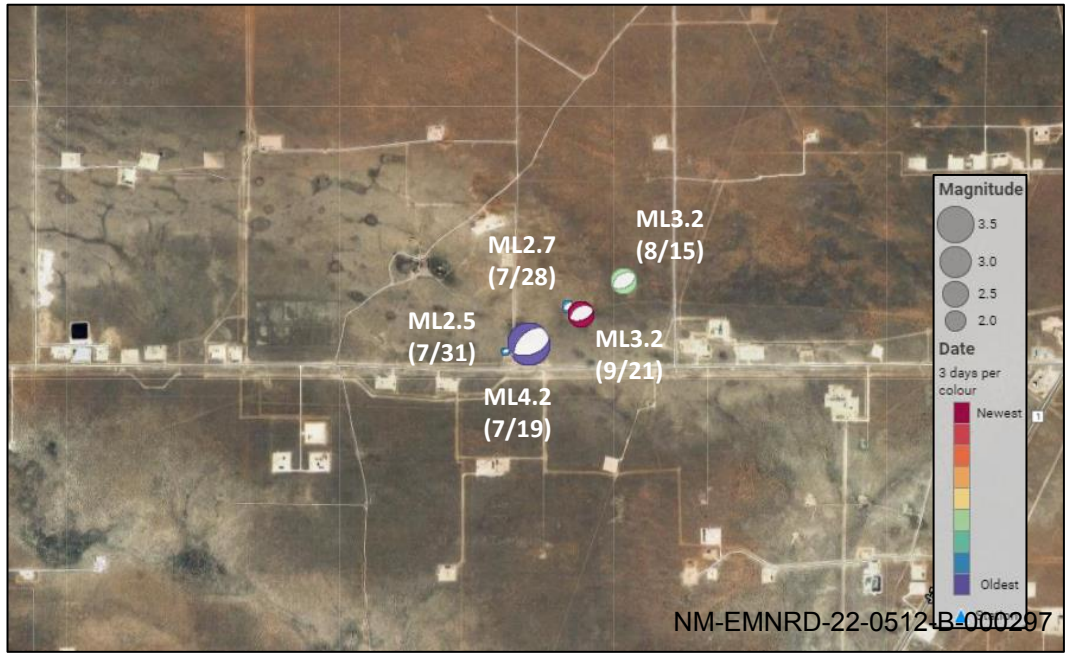
Seismicity History Near Mag. 4.0 Event

- Increase in seismic event frequency & magnitude leading up to M 4.0 on 7/19
- Sharp decrease in frequency & magnitude of seismicity since response, with no M 1.5+ events since 9/26/2021
- No M 2.5+ events since 9/21/21



AMERICAN OVERSIGHT

M 2.5+ Events in County Line Sequence



County Line Seismicity Response Group Proposal

Status & Results

- 6-month mark since an ML2.5+ event is approaching (3/21/2022)
- All events within 2 mi. of the ML4.0 event on 7/19/21 have been <ML1.5 during that 6-month period
- Operator response showing a positive correlation with reduced EQ events in County Line Response Area
- Industry and OCD cooperative response to seismicity

Proposal: Stay the course and begin more frequent dialog

- Keep OCD induced seismicity protocol in place and monitor seismicity & pressure response
- Begin periodic County Line technical meetings between Seismicity Response Group & OCD to share learnings and propose possible changes in curtailment

Proposed Dates	Topic
March 11, 2022	Alignment prior to 6-month anniversary of ML2.5+ seismicity
May 11, 2022	Share seismicity & pressure learnings prior to 8-month anniversary
August 10, 2022	Share seismicity & pressure learnings prior to 1-year anniversary
November 9, 2022	Continued dialog as warranted

AMERICAN OVERSIGHT

From: Leonard - DNR, Mike <mike.leonard@state.co.us>
Sent: Tuesday, January 25, 2022 10:33 AM EST
To: Larry Harlan <topcorpllh@gmail.com>
CC: Scott Anderson <sanderson@edf.org>; Rob Boulware <boulwarer@srcx.com>; Eubank, Jerry D <Jerry_Eubank@oxy.com>; Nicole.StAmand@shell.com <Nicole.StAmand@shell.com>; Gaines, Dean <Dean.Gaines@apachecorp.com>; Helms, Lynn D. <lhelms@nd.gov>; Winn, Lisa <lisa.winn@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kevin O'Scannlain <oscannlaink@api.org>; Wei Wang <wei.wang@rrc.texas.gov>; Wilcoxon, Bruce <bruce.wilcoxon@bakerhughes.com>; Stephanie Meadows <meadows@api.org>; Hilary Olson <holson@utexas.edu>
Subject: [EXTERNAL] Re: Update

This sender might be impersonating a domain that's associated with your organization. Learn why this could be a risk

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Larry,
Thanks for all the work you have done and congratulations to Hilary

On Mon, Jan 24, 2022 at 5:56 PM Larry Harlan <topcorpllh@gmail.com> wrote:

> TOPCORP Advisory Council
>
> I want to update you on a change happening at TOP Energy Training.
>
> The Top Energy Training leadership team and I have reached a mutual agreement for the transition of the Executive Director position. Dr. Hilary Olson, with the University of Texas at Austin's Hildebrand Department of Petroleum and Geosystems Engineering, will assume the role of Executive Director and become the primary contact for Top Energy Training and TOPCORP. Hilary is copied on this note and can be reached at that email address.
>
> I want to thank you all for serving on the Advisory Council and for your support and advice. I'm sure Hilary will enjoy the same relationship. I have enjoyed my four and one-half years working with TOPCORP and wish you all continued success.
>
> Larry L. Harlan
>
> email: topcorpllh@gmail.com
> www.TopEnergyTraining.com

--

Mike Leonard

Compliance Unit Manager

C 719.343.0130

1120 Lincoln Street, Suite 801, Denver, CO 80203

mike.leonard@state.co.us | www.colorado.gov/cogcc

"The most important single ingredient in the formula of success is knowing how to get along with people." – Theodore Roosevelt

AMERICAN OVERSIGHT

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, March 28, 2022 10:30 AM EDT
Subject: [EXTERNAL] REGISTER NOW - Undocumented Orphaned Wells Workshop
Attachment(s): "Orphaned Well Workshop Agenda Final.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning,

You are invited to join the Interstate Oil and Gas Compact Commission (IOGCC), the U.S. Department of Energy (DOE), the U.S. Department of the Interior (DOI), and DOE National Laboratory leadership at an Undocumented Orphaned Wells Workshop on **April 5, 2022, from 11 AM CT to 3 PM CT**.

The recent Bipartisan Infrastructure Law directed DOE to collaborate with IOGCC to assist the Federal land management agencies, States, and Indian Tribes in identifying and characterizing undocumented orphaned wells.

To advance this effort, DOE will be co-hosting a virtual workshop with IOGCC and DOI. The Undocumented Orphaned Wells Workshop will bring together regulators, researchers, and key stakeholders to discuss the current state of play of undocumented wells. Participants will also explore challenges to finding and characterizing these wells, as well as ideas and solutions to shape the future of research and technology development to mitigate methane and other greenhouse gas emissions from undocumented orphaned wells.

The workshop will include overviews from each organization and four technical sessions to discuss technical needs and requirements for well identification and characterization. More details can be found on the attached agenda.

You will need to register in advance for this session. The link appears below.

When: Apr 5, 2022 11:00 AM Central Time (US and Canada)
Topic: Undocumented Orphaned Wells Workshop

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_8YWM2scTQtmuA_iLb_E2PQ

After registering, you will receive a confirmation email containing information about joining the webinar.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



AMERICAN OVERSIGHT

UNDOCUMENTED ORPHANED WELLS WORKSHOP

Date: April 5, 2022

Time: 12 PM EST – 4 PM EST

AGENDA

12:00 PM	**Welcome and Overview of DOE FECM Undocumented Well Program** Dr. Jennifer Wilcox, Principal Deputy Secretary and Acting Assistant Secretary Office of Fossil Energy Carbon Management, U.S. Department of Energy
12:15 PM	**Environmental Defense Fund** Adam Peltz, Environmental Defense Fund
12:30 PM	**Independent Petroleum Association of America** Ryan Ullman, Vice President of Government Relations IPAA
12:40 PM	**Overview of DOI Documented Well Plugging Program & Data Collection** Greg Nottingham, U.S. Department of Interior Alicia Lindauer, U.S. Department of Interior, United States Geological Survey
1:00 PM	**IOGCC & State Representation across the United States** Lori Wrotenbery, Interstate Oil and Gas Compact Commission Kurt Klapkowski, Acting Deputy Secretary for Oil & Gas Management for the PA DEP
1:20 PM	**Technical Session #1: Defining the Need for Undocumented Orphaned Well RDD&D** Natalie Pekney, National Energy Technology Laboratory
1:55 PM	**Break**
2:10 PM	**Technical Session #2: Undocumented Well Finding Technologies** Brian Wihl, Lawrence Livermore National Laboratory
2:45 PM	**Technical Session #3: Undocumented Well Characterization Technologies** Sebastien Biraud, Lawrence Berkeley National Laboratory
3:20 PM	**Technical Session #4: Outcomes (Framework, Best Practices) Strategy** Chester Weiss, Sandia National Laboratory
3:55 PM	**Closing Remarks** Bill Carey, Los Alamos National Laboratory
4:00 PM	**Adjourn**

NM-EMNRD-228512-B-000301

From: Gaucher, Michelle <Michelle.Gaucher@bcogc.ca>
Sent: Tuesday, May 17, 2022 1:41 PM EDT
To: Colin.Brooks@occ.ok.gov <Colin.Brooks@occ.ok.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; James.gonsiewski@dnr.ohio.gov <James.gonsiewski@dnr.ohio.gov>; Paul.Dubois@rrc.texas.gov <Paul.Dubois@rrc.texas.gov>; Venables, Stuart <Stuart.Venables@bcogc.ca>
CC: Comiskey, Cody <cody.comiskey@chevron.com>
Subject: [EXTERNAL] Regulator Panel Introductions
Attachment(s): "Introduction of Panel.docx"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi All,

Attached is a bulleted list of topics that will be used to put a few introductory slides together for the June IS workshop. Please fill it in and return to me prior to June 1st.

Many thanks,
Michelle

PS Comments and suggestions welcome!

BC Oil & Gas COMMISSION

Michelle Gaucher P.Eng.
Senior Reservoir Engineer
Michelle.Gaucher@BCOGC.ca

Victoria BC
Office Address Directory
bcogc.ca

T. 250 419-4482
F. 250-419-4403

We acknowledge and respect the many Indigenous Territories and Treaty areas, each with unique cultures, languages, legal traditions and relationships to the land and water, which the BC Oil and Gas Commission's work spans. We also respectfully acknowledge the Métis and Inuit people living across B.C.

This email and any attachments are intended only for the named recipient and may contain confidential and/or privileged material. Any unauthorized copying, dissemination or other use by a person other than the named recipient of this communication is prohibited. If you received this in error or are not named as a recipient, please notify the sender and destroy all copies of this email immediately.

AMERICAN OVERSIGHT

Slides for SEG/SPE Regulator Session

Please provide info on the following:

- Your name, title, organization
- Map of your State/province with IS areas set out or identified
- Unique challenges for your jurisdiction
- One tip or success worth noting

AMERICAN OVERSIGHT

Subject: [EXTERNAL] REMINDER - YOU MUST REGISTER - Meeting with DOI on DRAFT initial grant guidance.
Location: Zoom

Start: Wednesday, March 09, 2022 1:00 PM EST
End: Wednesday, March 09, 2022 2:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Amy Childers
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Adam Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Basil Seggos <basil.seggos@dec.ny.gov>; Nick Tew <ntew@ogb.state.al.us>; Bob Brinkmann <bob.brinkmann@oregon.gov>; casey.hanell@dnr.wa.gov <casey.hanell@dnr.wa.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Christi Craddick <christi.craddick@rrc.texas.gov>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; Cortney Luxford <cluxford@minerals.nv.gov>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Dan Seamount <dan.seamount@alaska.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Jeff Robbins <jeff.robbins@state.co.us>; Jeremy Price <jeremy.price@alaska.gov>; Jess New <jnew@ogb.state.ms.us>; Jessie Chmielowski <jessie.chmielowski@alaska.gov>; james.chapman@ncdenr.gov <james.chapman@ncdenr.gov>; Jim Halvorson <jhalvorson@mt.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; John Baza <johnbaza@utah.gov>; johnrogers@utah.gov <johnrogers@utah.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Larry Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>; Mark Williams <mark.williams@dnr.ga.gov>; azogcc@azdeq.gov <azogcc@azdeq.gov>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Molly Michaelson <molly.michaelson@maryland.gov>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; Richard Ieyoub <richard.ieyoub@la.gov>; Robert Ghiglieri <rghiglieri@minerals.nv.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; schweire@dhec.sc.gov <schweire@dhec.sc.gov>; Roxanne Reiley <roxanne.reiley@tn.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman (r.hoffman@kcc.ks.gov) <r.hoffman@kcc.ks.gov>; Shane Khoury <shane.khoury@aogc.state.ar.us>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan Duffy <s.duffy@kcc.ks.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Dianne Jones <dianne.jones@iogcc.state.ok.us>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; John Adams <johnny.adams@la.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Tryon, Stephen G <stephen_tryon@ios.doi.gov>; Lodder, William B <William_Lodder@ios.doi.gov>
Optional Attendees: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Troutman, Cori A (EEC) <cori.troutman@ky.gov>; Schweitzer, Shaymus R (DEC) <shaymus.schweitzer@dec.ny.gov>; Tabor, David <adtabor@nd.gov>; Calogero, Katherine M (DEC) <Katherine.Calogero@dec.ny.gov>; Roby Fulkerson <Roby.Fulkerson@LA.GOV>; Paladijczuk, Tracie L (OGC) <tracie.paladijczuk@alaska.gov>; Eric.Vendel@dnr.ohio.gov <Eric.Vendel@dnr.ohio.gov>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; bartkettle@utah.gov <bartkettle@utah.gov>; Jones, Benjamin <BJones@mt.gov>; natashaballif@utah.gov <natashaballif@utah.gov>; Bohrer, Mark F. <mbohrer@nd.gov>; Dwight Keen <d.keen@kcc.ks.gov>; BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; PRIEST Zee SR * DGMI <Zee.SR.PRIEST@dogami.oregon.gov>; Zellou, Abdel@DOC <Abdel.Zellou@conservation.ca.gov>; Nottingham, Gregory P <gregory_nottingham@ios.doi.gov>; Kidder, Keith (EGLE) <KidderK1@michigan.gov>; aogc.lbengal@gmail.com <aogc.lbengal@gmail.com>; Brandt, Jennifer <jennbrandt@pa.gov>; Davis, Elizabeth <elidavis@pa.gov>; Andrew.Adgate@dnr.ohio.gov <Andrew.Adgate@dnr.ohio.gov>; Counahan, Daniel <dcounahan@pa.gov>; Wise, Harry <hwise@pa.gov>; Bailey, Brian (P.E.) <bribailey@pa.gov>; Babb, Brian <bbabb@pa.gov>; robert.rice@wv.gov <robert.rice@wv.gov>; nate.pearson@state.co.us <nate.pearson@state.co.us>; David Andrews - DNR <david.andrews@state.co.us>; Vanderbusch, Cody W. <cwvanderbusch@nd.gov>; Linero, Alvaro <Alvaro.Linero@dep.state.fl.us>; Jordano, Mary Ann <majordano@pa.gov>; Suchodolski, Myron <msuchodols@pa.gov>; hodan.marta@azdeq.gov <hodan.marta@azdeq.gov>; Katie Vance (DNR) <Katie.Vance2@LA.GOV>; Haarsager, Katie A. <kahaarsager@nd.gov>; patrick.amole1@wyo.gov <patrick.amole1@wyo.gov>; Means, Jennifer <jenmeans@pa.gov>; Bob Parker <b.parker@kcc.ks.gov>; Agusiegbe, Vincent@DOC <Vincent.Agusiegbe@conservation.ca.gov>; Combs, Marvin L (EEC) <marvin.combs@ky.gov>; LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>; Estornell, Paula M <paula_m_estornell@ios.doi.gov>; Royer, Brian <BRoyer@dnr.IN.gov>; Stratton Edwards <sedwards@capitolhillcg.com>; Stratton Edwards <sedwards@caphillgrp.com>; stone.amanda@azdeq.gov <stone.amanda@azdeq.gov>; Kirk McQuillan <kmcquillan@ogb.state.al.us>

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Good morning,

I just wanted to remind you that you MUST register for this meeting, just accepting the calendar invite does not complete the process! Please be advised everyone will need to register, do not forward your registration credentials to other individuals.

Hi there,

AMERICAN OVERSIGHT

You are invited to a Zoom webinar.

When: Mar 9, 2022 12:00 PM Central Time (US and Canada)
Topic: Meeting with DOI on DRAFT initial grant guidance.

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_8PYNcF5rSvylJuGPHHHSXw

After registering, you will receive a confirmation email containing information about joining the webinar.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Zoom <no-reply@zoom.us>
Sent: Thursday, March 17, 2022 4:49 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Review of DOI's Draft Initial Grant Guidance--States Only Confirmation from IOGCC

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Hi Adrienne Sandoval,

Thank you for registering for "Review of DOI's Draft Initial Grant Guidance--States Only". Please save this email or add this event to your calendar below. You will need this link to join. Please do not share or forward this link.

Please submit any questions to: amy.childers@iogcc.state.ok.us

Date Time: Mar 18, 2022 01:00 PM Central Time (US and Canada)

Join from a PC, Mac, iPad, iPhone or Android device:
Click Here to Join
Note: This link should not be shared with others; it is unique to you.
Password: 175739
Add to Calendar Add to Google Calendar Add to Yahoo Calendar

Or iPhone one-tap :
US: +13462487799,,83172860882# or +16699009128,,83172860882#

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592
Webinar ID: 831 7286 0882
Password: 175739
International numbers available: https://us02web.zoom.us/u/kbYrZXepcu

You can cancel your registration at any time.

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, February 25, 2022 5:04 PM EST
Subject: [EXTERNAL] SAVE THE DATE - Meeting with Department of Energy on Undocumented Orphan Well Program

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear IOGCC Official Representatives, Associate Official Representatives, and Oil and Gas Directors,

IOGCC is assisting the U.S. Department of Energy (DOE) in convening a meeting with the IOGCC states to discuss the Undocumented Orphan Well Program. DOE is developing this program under the Infrastructure Investment and Jobs Act to research, develop, demonstrate, and deploy technologies that will enable states, federal agencies, and tribal organizations to identify and characterize undocumented orphan wells. This program is sponsored by the DOE Office of Fossil Energy and Carbon Management and will leverage the unique expertise of multiple national laboratories.

This meeting will be DOE's initial conversation with the states to gain insight into state needs. More information about the meeting and the program will be forthcoming. In the meantime, please make plans to attend this kickoff session.

You will need to register in advance for this session. The link appears below.

You are invited to a Zoom webinar.

When: Mar 17, 2022 11:00 AM Central Time (US and Canada)
Topic: Department of Energy - Undocumented Orphan Well Program

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_O_SvhkDiTyGE9p6R9_YHgw

After registering, you will receive a confirmation email from ZOOM containing information about joining the webinar.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: John Smitherman <JRS@nmoga.org>
Sent: Monday, December 13, 2021 1:43 PM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: John Smitherman <JRS@nmoga.org>
Subject: [EXTERNAL] Seismic event management

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Director Sandoval,

I think I overreached recently as we spoke about future meetings regarding seismicity. I still believe that we should wait a bit longer before we meet as an industry group to discuss any modifications to the recent OCD Seismicity Protocol. As they are still brand new, it seems that scheduling a group conversation about any changes would be best after legislative session is over, just as we agreed. Based on our discussions amongst operators who are affected by the new protocol, I do think that it would be in all parties' best interest to offer some feedback as to how to clarify the current protocol as soon as we can. Perhaps we could offer some feedback in writing so that you and your staff can consider our thoughts on that more timely concept.

I really didn't mean to preclude the OCD from meeting with individual operators or even a group of operators in order to share relevant data and/or analysis, especially on the 3.2M event this fall. A substantial response, one that is crafted with the best data and best analysis in mind, is what we should all be looking for. In order to accomplish that, it seems proper that companies should be able to meet with you/your staff to offer the best information as soon as it is available so that a response that is more fully data-driven (like that of the 4.0M event) can be crafted quickly. So far, the protocol-driven response to this event has not included follow-up robust data and analysis that could inform a more targeted and effective industry response. For example, in the 4.0M area, only deep injection was impacted after thorough analysis of the seismic data.

I think you will agree that this process of rapid review of data and analysis has already taken place with the operators surrounding the 4.0M event from last summer. Barring new seismicity, it seems proper to give the current response actions until after the legislative session before we readdress them with a group technical review session with OCD. Again, I do not want to preclude individual companies ability to meet with OCD to offer new data and/or analysis. I am suggesting that a NMOGA-coordinated meeting be scheduled for around the first of March (together with or separate from the protocol feedback session).

I apologize for the confusion that I have caused.

Let me know if you have any questions for me.

John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Steering Committee Meeting
Location: Zoom
Start: Wednesday, January 05, 2022 4:00 PM EST
End: Wednesday, January 05, 2022 5:00 PM EST
Show Time As: Tentative
Recurrence: Monthly
Meeting Status: Not yet responded
Organizer: Amy Childers
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 01.05.2022.pdf","Minutes 11-08-2021.pdf","IOGCC Harris FINAL DRAFT 11-8-21.pdf","Agenda 02.02.2022.docx","Minutes 01-05-22.pdf","Agenda 03.02.2022.pdf","Minutes 02-02-22.pdf","FracFocus Trademark Assignment.pdf","Agenda 04.06.2022.pdf","Minutes 03-02-22.pdf","Agenda 05.04.2022.pdf","Minutes 04-06-22.pdf","Orphan Well Task Force.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Zoom Details to follow.

Appointment Recurrence Exception
Subject: [EXTERNAL] Steering Committee Meeting - ZOOM login and documents attached.
Start: Wednesday, January 05, 2022 4:00 PM EST
End: Wednesday, January 05, 2022 5:00 PM EST
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 01.05.2022.pdf","Minutes 11-08-2021.pdf","IOGCC Harris FINAL DRAFT 11-8-21.pdf"

AMERICAN OVERSIGHT

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Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Topic: Steering Committee Meeting

Time: Jan 5, 2022, 03:00 PM Central Time (US and Canada)

Join Zoom Meeting

https://us02web.zoom.us/j/84388981090

Meeting ID: 843 8898 1090

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Meeting ID: 843 8898 1090

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AMERICAN OVERSIGHT

Appointment Recurrence Exception
Start: Wednesday, February 02, 2022 4:00 PM EST
End: Wednesday, February 02, 2022 5:00 PM EST
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 02.02.2022.docx","Minutes 01-05-22.pdf"

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Hello,

Attached are the minutes form January Steering Committee.

Talk to you soon!

Good evening,

I have attached the agenda for tomorrow’s call as well as the Zoom link below. You will receive the January Steering Committee minutes tomorrow.

Hope all is well!

Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

AMERICAN OVERSIGHT

Topic: Steering Committee Meeting

Time: Feb 2, 2022 03:00 PM Central Time (US and Canada)

Join Zoom Meeting

https://us02web.zoom.us/j/84382475507

Meeting ID: 843 8247 5507

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Meeting ID: 843 8247 5507

Find your local number:
https://us02web.zoom.us/u/knbf2WAGz

Appointment Recurrence Exception
Start: Wednesday, March 02, 2022 4:00 PM EST
End: Wednesday, March 02, 2022 5:00 PM EST

AMERICAN OVERSIGHT

Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 03.02.2022.pdf","Minutes 02-02-22.pdf","FracFocus Trademark Assignment.pdf"

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Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Topic: Steering Committee Meeting

Time: Mar 2, 2022 03:00 PM Central Time (US and Canada)

Join Zoom Meeting

https://us02web.zoom.us/j/89356335572

Meeting ID: 893 5633 5572

One tap mobile

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+1 646 558 8656 US (New York)

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Meeting ID: 893 5633 5572

Find your local number:
https://us02web.zoom.us/u/kbKBrpgojA

Appointment Recurrence Exception
Start: Wednesday, April 06, 2022 4:00 PM EDT
End: Wednesday, April 06, 2022 5:00 PM EDT
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 04.06.2022.pdf","Minutes 03-02-22.pdf"

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Agenda and minutes attached for tomorrow’s call.

Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Topic: Steering Committee Meeting

Time: Apr 6, 2022, 03:00 PM Central Time (US and Canada)

Join Zoom Meeting

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https://us02web.zoom.us/j/85490862139

Meeting ID: 854 9086 2139

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+1 312 626 6799 US (Chicago)

Meeting ID: 854 9086 2139

Find your local number:
https://us02web.zoom.us/u/kdADdpYbgd

Amy M. Childers

Executive Project Manager

Interstate Oil and Gas Compact Commission

Business phone (405) 522-8384

Cell phone (405) 642-8074

amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

Appointment Recurrence Exception
Start: Wednesday, May 04, 2022 4:00 PM EDT
End: Wednesday, May 04, 2022 5:00 PM EDT
Required Attendees: Amy Childers <amy.childers@iogcc.state.ok.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Jeremy Price <jeremy.price@alaska.gov>; John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms <lhelms@nd.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Optional Attendees: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Tran <Victoria.Tran@ee.ok.gov>
Attachment(s): "Agenda 05.04.2022.pdf","Minutes 04-06-22.pdf","Orphan Well Task Force.pdf"

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Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Topic: Steering Committee Meeting

Time: May 4, 2022, 03:00 PM Central Time (US and Canada)

Join Zoom Meeting

https://us02web.zoom.us/j/83544620040

Meeting ID: 835 4462 0040

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+1 646 558 8656 US (New York)

Meeting ID: 835 4462 0040

Find your local number:
https://us02web.zoom.us/u/kc3d8p047B

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, January 5, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
   a. **Release of Idle/Orphan Well Report**
   b. **Implementation of REGROW Act**
4. **Steps to Finalize Strategic Plan**
5. **Other Business**
6. **Adjournment**

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, February 2, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
4. **Update on REGROW Act Implementation**
5. **2022 Annual Conference—Baltimore Royal Sonesta Harbor Court**

   September 25-27 or
   October 16-18 or
   October 30-November 1
6. **Other Business**
7. **Adjournment**

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, March 2, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**

2. **Minutes of Previous Meeting**

3. **Executive Director's Report**
   a. **Update on REGROW Act Implementation**
   b. **Plans for Annual Business Meeting in Oklahoma City**
   c. **Dates for Annual Conference in Baltimore (October 16-18)**

4. **Assignment of IOGCC's Interest in the FracFocus Trademark to GWPC**

5. **Other Business**

6. **Adjournment**

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, April 6, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
4. **Update on REGROW Act Implementation**
5. **Update on Annual Business Meeting in Oklahoma City**
6. **Other Business**
7. **Adjournment**

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, May 4, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Ken Wagner**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
4. **REGROW Act Implementation**
5. **Annual Business Meeting in Oklahoma City**
6. **Other Business**
7. **Adjournment**

AMERICAN OVERSIGHT

ASSIGNMENT OF TRADEMARKS AND TRADEMARK REGISTRATION RIGHTS

This Assignment of Trademarks and Trademark Registration (this "Assignment") is entered into and effective this ___ day of March, 2022, by and between Ground Water Protection Council, a non-profit corporation of Oklahoma located at 13308 N. MacArthur Blvd Oklahoma City, Oklahoma 73120 (GWPC) and Interstate Oil and Gas Compact Commission, a multistate governmental agency with an address of 900 NE 23rd Street Oklahoma City Oklahoma 73105, (IOGCC) each individually referred to as a "Party" and collectively referred to as the "Parties". All capitalized terms that are used but not defined herein have the meanings assigned to them in the Agreement.

WHEREAS, the parties are co-owners of the trademark and service mark registrations set forth on Schedule 1 attached hereto (the "Registrations") for the trademark and service mark (the "Registered Trademarks") listed in the Registration, and have adopted, have used and are currently using the Registered Trademarks; and

WHEREAS, GWPC has agreed to acquire all of IOGCC's right, title and interest in and to the Registered Trademarks and IOGCC has agreed to transfer to GWPC all of IOGCC's right, title and interest in and to the Registered Trademarks:

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. For good and valuable consideration, IOGCC does hereby assign, transfer, convey and set over unto GWPC its full right, title and interest, including common law rights, in, to and under the Trademarks, including all goodwill accrued in connection and associated therewith, and the exclusive right to enforce the Trademarks in the sole name of GWPC, including the right to sue for past infringement if any there may be.

2. This instrument shall be binding upon IOGCC and its successors and assigns, and shall inure the benefit of GWPC and its successors and assigns.

[Signatures appear on the following page.]

AMERICAN OVERSIGHT

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound thereby, have executed this Assignment as of the date first written above.

Ground Water Protection Council

By: _____
Name: _____
Title: _____

Interstate Oil and Gas Compact Commission

By: _____
Name: _____
Title: _____

AMERICAN OVERSIGHT

SCHEDULE 1

Registered Trademarks:

1. U.S. Reg. No. 4142155 for



Registered May 15, 2012

2. Canadian Reg. No. TMA852227 for



Registered May 31, 2013

AMERICAN OVERSIGHT

2022-2024

Mission: The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery and storage of domestic oil and gas resources while protecting human health and safety and the environment.

Vision: The Interstate Oil and Gas Compact Commission will be viewed as the authority on domestic oil and gas issues. The strategies and services of the Commission will be developed around emerging issues, so that the IOGCC is a leader and a driver of national oil and gas policy.

GOAL AREAS – CORE COMPETENCIES			
STEWARDSHIP Fostering wise stewardship of domestic oil and gas resources.	**ENVIRONMENTAL PROTECTION** Protecting human health and safety and the environment while supporting responsible production and storage.	**ENGAGEMENT** Engaging with members, the public, and policymakers through education, knowledge sharing, listening, and advocacy.	**INNOVATION** Meeting challenges and seizing opportunities through innovation.
A. Recommend measures for **preventing physical waste** and promoting efficient recovery of oil and gas. B. Foster an understanding of oil and gas resources in relation to the **economy and national security**. C. Support the **lead role of the states** in ensuring the responsible development of oil and gas resources. D. Support **sufficient funding** of state programs and services.	A. Assist states to identify, evaluate, and implement processes for **continuous improvement** of programs and services that protect human health and safety and the environment. B. Support nationwide efforts to mitigate **environmental risks**. C. Assist the states in development of programs that reduce environmental risks associated with the **storage and distribution** of gases such as carbon dioxide and hydrogen. D. Assist states to identify, evaluate and implement processes to document and properly plug **idle and orphan wells,** and to reclaim and remediate the well sites and associated facilities.	A. Provide **opportunities for sharing** information, viewpoints, and best practices. B. **Communicate with and inform the public** about IOGCC and its member states, leveraging areas of concurrence and honoring areas of divergence between the states on energy issues. C. Convey to Congress, federal agencies, states, and stakeholders the policies and positions adopted by IOGCC through the **resolutions** process.	A. Drive the nation's energy future, particularly regarding oil and gas resources, by being a leader, convener, and collaborator seeking **innovative solutions**. B. Promote **research and development** of technologies for oil and gas recovery and environmental protection. C. Timely identify and address **emerging issues,** including funding and storage and distribution. D. Evaluate the contribution of **oil and gas and related resources and technology** as essential components of the energy mix in a reduced carbon future.

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, January 5, 2022
3:00 PM CT

1. Call to Order and Roll Call **Chair, Ken Wagner**

Members Present:
John Baza
Wayne Christian
Lynn Helms
Jeremy Price
Adrienne Sandoval
Ken Wagner (joined at 3:36 PM CT)
Adam Wygant

Members Absent:

Note: Adam Wygant chaired the meeting pending Ken Wagner's arrival.

2. Minutes of Previous Meeting

The committee reviewed the minutes of the November 8, 2021, meeting.

Motion by John Baza to approve the minutes as presented.
Second by Lynn Helms.
Motion passed unanimously.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on various administrative matters, noted the recent release of the latest edition of IOGCC's idle/orphan well report, and updated the committee on implementation of the REGROW Act. No action was taken.

4. Steps to Finalize Strategic Plan

The committee reviewed the draft strategic plan provided by Bob Harris at the conclusion of the two-part strategic planning session conducted in conjunction with the 2021 Annual Conference. The committee considered revisions to the wording of two of the strategies in the document (Environmental Protection C. and Innovation D.)

Motion by Adam Wygant to ask Ken Wagner to incorporate the revisions into the draft strategic plan and forward the revised draft to the Commission for approval at a special meeting.
Second by John Baza.
Motion passed unanimously.

AMERICAN OVERSIGHT

5. Other Business

The committee discussed the scheduling of the 2022 Annual Conference and the status of the Task Force established by the Memorandum of Understanding between IOGCC and the U.S. Environmental Protection Agency. No action was taken.

6. Adjournment

With its business concluded, the committee adjourned the meeting at 3:56 PM CT.

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, February 2, 2022
3:00 PM CT

1. Call to Order and Roll Call — Chair, Ken Wagner

Members Present:
John Baza
Wayne Christian
Lynn Helms
Jeremy Price
Adrienne Sandoval
Ken Wagner
Adam Wygant

Members Absent:

2. Minutes of Previous Meeting

Chair Ken Wagner asked if there was any objection to approval of the minutes of the January 5, 2022, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on various administrative matters. No action was taken.

4. Update on REGROW Act Implementation

The committee discussed the questions raised by DOI's announcement earlier in the week of the phased approach to the formula grant allocations. Wrotenbery will draft a summary—for potential future use—of areas in which DOI appears to be deviating from the language of REGROW.

Wrotenbery noted that she will join Adam Peltz of EDF and Ryan Ullman of IPAA on February 10, 2022, in providing a briefing on orphan wells for Congressional staff. The briefing will be hosted by the offices of Senators Luján and Cramer.

5. 2022 Annual Conference—Baltimore Royal Sonesta Harbor Court

Wrotenbery described staff's findings on potential locations for the annual conference.

Motion by Ken Wagner to hold the annual conference in Baltimore, Maryland.
Second by Adrienne Sandoval.
Motion passed unanimously.

AMERICAN OVERSIGHT

6. Other Business

Adam Wygant inquired about the scheduling of the next Nominating Committee meeting. Wrotenbery responded that the meeting will be scheduled soon.

7. Adjournment

With its business concluded, the committee adjourned the meeting at 3:55 PM CT.

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, March 2, 2022
3:00 PM CT

1. **Call to Order and Roll Call** **Chair, Ken Wagner**

Members Present:	Members Absent:
Wayne Christian	John Baza
Lynn Helms	Ken Wagner
Jeremy Price	
Adrienne Sandoval	
Adam Wygant	

2. **Minutes of Previous Meeting**

IOGCC Second Vice-Chair Adam Wygant asked if there was any objection to approval of the minutes of the February 2, 2022, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. **Executive Director's Report**

Executive Director Lori Wrotenbery discussed with the committee the implementation status of the orphan well funding provisions of the bipartisan Infrastructure Investment and Jobs Act (REGROW). She also updated the committee on plans for the 2022 annual meetings. No action was taken.

4. **Assignment of IOGCC's Interest in the FracFocus Trademark to GWPC**

Wrotenbery provided background information on the draft document assigning IOGCC's ownership interest in the FracFocus trademark to GWPC.

Motion by Lynn Helms to authorize Executive Director Lori Wrotenbery to execute the assignment on IOGCC's behalf.
Second by Wayne Christian.
Motion passed unanimously.

5. **Other Business**

Wayne Christian expressed intent to visit with Ken Wagner concerning an IOGCC resolution supporting Ukraine by encouraging oil and gas companies to sever business ties in Russia.

6. **Adjournment**

With its business concluded, the committee adjourned the meeting at 4:04 PM CT.

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, April 6, 2022
3:00 PM CT

1. Call to Order and Roll Call **Chair, Ken Wagner**

Members Present:	Members Absent:
John Baza	Adrienne Sandoval
Wayne Christian	
Lynn Helms	
Jeremy Price	
Ken Wagner	
Adam Wygant	

2. Minutes of Previous Meeting

Chair Ken Wagner asked if there was any objection to approval of the March 2, 2022, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on various administrative matters. No action was taken.

4. Update on REGROW Act Implementation

John Baza reported on a recent oversight hearing in the Subcommittee on Energy and Mineral Resources of the House Natural Resources Committee. The hearing, at which Mr. Baza testified, addressed the funding provided by the bipartisan infrastructure law for both orphan wells and abandoned mine lands.

Wrotenbery updated the committee on IOGCC's work to support the states in their use of the funding provided by the orphan well provisions of the bipartisan infrastructure law. The committee discussed the possibility of establishing an IOGCC task force to coordinate and guide IOGCC efforts on implementation of those provisions. The committee will continue this discussion at the next meeting.

5. Update on Annual Business Meeting in Oklahoma City

Wrotenbery reviewed the developing plans for the Annual Business Meeting.

6. Other Business

The committee had no other business.

7. Adjournment

With its business concluded, the committee adjourned the meeting at 3:52 PM CT.

AMERICAN OVERSIGHT

MINUTES
STEERING COMMITTEE
IOGCC 2021 Annual Conference
Inn at Loretto, Penthouse Suite
Santa Fe, New Mexico
Monday, November 8, 2021
12:00-1:15 PM MT

1. Call to Order and Roll Call

Members Present:	Members Absent:
John Baza	Jeremy Price
Larry Bengal	
Charlie Burd	
Wayne Christian	
Lynn Helms	
Adrienne Sandoval	
Ken Wagner	
Adam Wygant	

2. Minutes of Previous Meeting

The committee reviewed the minutes of the November 3, 2021, meeting.

Motion by Charlie Burd to approve the minutes as presented.
Second by Adam Wygant.
Motion approved unanimously.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on administrative matters. No action was taken.

4. Strategic Plan

The committee discussed the work product of the two-part strategic planning session conducted in conjunction with the annual conference. Bob Harris, who facilitated the session, left a draft strategic plan with a recommendation that it be approved with a minimum of additional wordsmithing. The plan will require approval of the full Commission.

5. Finance Committee Report for Business Session

a. Proposed 2022 Operating Budget and Capital Improvements
b. 2021 Financial Statements (through Q3)

Lynn Helms, Finance Committee Chair, reviewed with the committee the Finance Committee Report for the 2021 Annual Conference. The report includes the proposed 2022 operating and capital improvement budgets prepared for approval by the Commission at the Business Session on November 9, 2021. It also includes the 2021 financial statements through the third quarter.

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6. Dates/Location of 2022 Annual Conference

The committee discussed the need to select a location for next year's annual conference. Staff will work with Bea Ann Phillips of BPlanning Meeting Management, LLC, to assess the options.

7. Other Business

The committee had no other business.

8. Adjournment

With its business concluded, the committee adjourned the meeting at 1:10 PM MT.

AMERICAN OVERSIGHT

IOGCC ORPHAN WELL TASK FORCE

(A Special Committee of the Interstate Oil and Gas Compact Commission)

Background

The bipartisan Infrastructure Investment and Jobs Act (IIJA) provides funding to plug orphan wells, restore the well sites and adjacent land, and decommission associated pipelines and facilities on federal, state, private, and tribal lands. The twofold objective of this funding is to address the potential hazards of orphan wells while creating jobs for oil and gas workers.

The appropriations in the legislation include $4.275 billion in grants to state programs for work on state and private lands. With this funding, states will accelerate the work they are already doing with state funding. The federal funding will also enable states to identify and assess currently undocumented orphan wells with help from federal research and development.

IIJA was enacted on November 15, 2021. The Interstate Oil and Gas Compact Commission (IOGCC) immediately began working with the United States Department of the Interior (DOI) and Department of Energy (DOE) to assist the IOGCC member states in meeting two key deadlines set by Congress within the first six months after enactment.

Much has been accomplished within the first six months. Much more remains to be done to fully implement the law. Effective implementation will require a coordinated effort of the states, federal agencies, and tribal governments. IOGCC will continue to play a key role in ensuring federal agencies recognize the leadership of the states and work with the states in partnership.

Appointment and Term

Governor J. Kevin Stitt of Oklahoma, in his capacity as Chair of IOGCC, has appointed a special committee of IOGCC on implementation of the orphan well provisions of the IIJA. The special committee will be referred to as the IOGCC Orphan Well Task Force (Task Force).

As an IOGCC special committee, the Task Force will operate through the end of Governor Stitt's term as IOGCC chair. At the discretion of the next IOGCC chair, the term of the Task Force may be extended as needed.

Membership

The Task Force includes representatives of six IOGCC-member states selected on a bipartisan basis consistent with the spirit of IOGCC and the IIJA. Governor Stitt has appointed the following six officials to serve on the Task Force:

Jeremy Price
Chair
Alaska Oil and Gas Conservation Commission

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Uduak-Joe Ntuk
State Oil and Gas Supervisor
Geologic Energy Management Division
California Department of Conservation

John Adams
Assistant Commissioner
Office of Conservation
Louisiana Department of Natural Resources

Adrienne Sandoval
Director
Oil Conservation Division
New Mexico Energy, Minerals and Natural Resources Department

Lynn D. Helms
Director
Department of Mineral Resources
North Dakota Industrial Commission

Eric P. Vendel
Chief
Division of Oil and Gas Resources Management
Ohio Department of Natural Resources

Kurt Klapkowski
Acting Deputy Secretary
Office of Oil and Gas Management
Pennsylvania Department of Environmental Protection

Wei Wang
Executive Director
Railroad Commission of **Texas**

The representatives of the States of New Mexico and North Dakota will serve as co-chairs of the Task Force.

Purpose and Scope

Task Force will provide a forum for the exchange of information, experience, and ideas, facilitate communication between the states, federal agencies, and tribal governments, and guide IOGCC's implementation efforts. Among the issues to be addressed by the Task Force will be:

- Communication on the leadership role of the states in the implementation of the orphan well provisions of the IIJA.

DRAFT

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- Establishment of an appropriate working relationship between the states and the federal agencies administering the IIJA grants for state programs.
- Strengthening of working relationships between state, federal, and tribal entities plugging orphan wells.
- Provision of training and other support needed by the states for effective implementation.
- Development of grant proposals for the $2 million appropriated to IOGCC in the IIJA.

The Task Force will determine the work products of the Task Force. No action by the Task Force on a report, commentary, or finding shall constitute action of the Commission unless expressly approved by the Commission in accordance with the voting procedures of the IOGCC bylaws.

The Task Force will report to and seek input from the IOGCC member and associate member states concerning the activities of the Task Force. The Task Force will also seek input and advice from experts in other state and federal agencies, industry, non-governmental organizations, and academia. The Task Force may make recommendations for action to the Commission, the Steering Committee, or other IOGCC committees.

If you need additional information on the Task Force, please feel free to contact Lori Wrotenbery, IOGCC Executive Director, at Lori.Wrotenbery@iogcc.state.ok.us or 405-522-8381.

See related press release: [to be drafted]

DRAFT

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Wednesday, November 03, 2021 6:57 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Charlie Burd <cburd@gowv.com>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms <lhelms@nd.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>
CC: Jeremy Price <jeremy.price@alaska.gov>; Jeremy Hagen <jeremy.hagen@rrc.texas.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: [EXTERNAL] Steering Committee Meeting, Monday, November 8, 2021, 12:00-1:15 PM MT, Inn at Loretto, Penthouse Suite
Attachment(s): "Agenda 11-08-2021.pdf","Minutes 11-03-2021.pdf","Meetings-PastLocations&Dates.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Steering Committee Members,

The Steering Committee will meet over lunch on Monday, November 8th, from 12:00-1:15 pm in the Penthouse Suite at the Inn at Loretto. Attached are the agenda, the minutes of today's meeting, and a list of past meeting locations.

At the meeting, you will receive a hard copy of these materials, along with the Finance Committee Report for the Business Session.

Please let me know if you have any questions.

Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
IOGCC 2021 ANNUAL CONFERENCE
Inn at Loretto, Penthouse Suite
Santa Fe, New Mexico
Monday, November 8, 2021
12:00–1:15 PM MT

1. **Call to Order and Roll Call** — **Chair, Wayne Christian**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
4. **Strategic Plan**
5. **Finance Committee Report for Business Session**
   a. **Proposed 2022 Operating Budget and Capital Improvements**
   b. **2021 Financial Statements (through Q3)**
6. **Dates/Location of 2022 Annual Conference**
7. **Other Business**
8. **Adjournment**

AMERICAN OVERSIGHT

MEETINGS OF THE INTERSTATE OIL AND GAS COMPACT COMMISSION, 1935-PRESENT

LOCATION	DATE
Oklahoma City, Oklahoma	September, October and December, 1935
Oklahoma City, Oklahoma	March, October and December, 1936
	July, 1936
New Orleans, Louisiana	May, 1937
Santa Fe, New Mexico	July, 1937
Houston, Texas	October, 1937
Oklahoma City, Oklahoma	January, 1938
Wichita, Kansas	April, 1938
Colorado Springs, Colorado	July, 1938
Tulsa, Oklahoma	September, 1938
Ft. Worth, Texas	December, 1938
Austin, Texas	March, 1939
Santa Fe, New Mexico	July, 1939
Oklahoma City, Oklahoma	August, 1939
Austin, Texas	August, 1939
Ft. Worth, Texas	September, 1939
Wichita, Kansas	January, 1940
Oklahoma City, Oklahoma	April, August and December, 1940
Tulsa, Oklahoma	December, 1940
New Orleans, Louisiana	April, 1941
Ft. Worth, Texas	October, 1941
Oklahoma City, Oklahoma	December, 1941
Little Rock, Arkansas	March, 1942
Lexington, Kentucky	June, 1942
Chicago, Illinois	October, 1942
Oklahoma City, Oklahoma	December, 1942
Wichita, Kansas	April, 1943
Pittsburgh, Pennsylvania	June, 1943
Santa Fe, New Mexico	September, 1943
Wichita, Kansas	December, 1943
New Orleans, Louisiana	April, 1944
Denver, Colorado	June, 1944
Oklahoma city, Oklahoma	October, 1944
Jackson, Mississippi	December, 1944
Oklahoma City, Oklahoma	June, 1945
Wichita, Kansas	December, 1945
Tulsa, Oklahoma	April, 1946
Grand Rapids, Michigan	August, 1946
Dallas, Texas	December, 1946
Birmingham, Alabama	April, 1947
Great falls, Montana	August, 1947
Oklahoma city, Oklahoma	December, 1947
Chicago, Illinois	May, 1948
New York, New York	August, 1948
Wichita, Kansas	December, 1948
Jacksonville, Florida	May, 1949
Estes Park, Colorado	September, 1949
New Orleans, Louisiana	December, 1949
Biloxi, Mississippi	May, 1950
French lick, Indiana	August, 1950
Houston, Texas	December, 1950
Santa Fe, New Mexico	April, 1951
Ft. Worth, Texas	September, 1951
Little Rock, Arkansas	December, 1951
Phoenix, Arizona	May, 1952
Banff Alberta, Canada	September, 1952
Wichita, Kansas	December, 1952
New Orleans, Louisiana	April, 1953
Billings, Montana	August, 1953
Oklahoma City, Oklahoma	December, 1953
Savannah, Georgia	May, 1954
Omaha, Nebraska	September, 1954
Chicago, Illinois	December, 1954
Denver, Colorado	June, 1955
Santa Fe, New Mexico	December, 1955
Dallas, Texas	May, 1956
Miami Beach, Florida	December, 1956
Yellowstone Park, Wyoming	June, 1957
Tulsa, Oklahoma	December, 1957
Salt Lake City, Utah	June, 1958
Kansas, Missouri	December, 1958
New Orleans, Louisiana	June, 1959
Philadelphia, Pennsylvania	December, 1959
Detroit, Michigan	June, 1960
Phoenix, Arizona	December, 1960
Houston, Texas	June, 1961
Denver, Colorado	December, 1961
Omaha, Nebraska	June, 1962
Miami Beach, Florida	December, 1962
New Orleans, Louisiana	June, 1963
Santa Fe, New Mexico	December, 1963
Billings, Montana	June, 1964
Biloxi, Mississippi	December, 1964
Pittsburgh, Pennsylvania	June, 1965
Corpus Christi, Texas	December, 1965
Tulsa, Oklahoma	June, 1966
Phoenix, Arizona	December, 1966
Denver, Colorado	June, 1967
New Orleans, Louisiana	December, 1967
Mobile, Alabama	June, 1968
Miami Beach, Florida	December 1968
Casper, Wyoming	June, 1969
Salt Lake City, Utah	December, 1969

AMERICAN OVERSIGHT

Columbus, Ohio	June, 1970
Santa Fe, New Mexico	December, 1970
Bismarck, North Dakota	June, 1971
Biloxi, Mississippi	December, 1971
Hot Springs, Arkansas	June, 1972
Houston, Texas	December, 1972
Tulsa, Oklahoma	June, 1973
New Orleans, Louisiana	December, 1973
Vail, Colorado	June, 1974
Phoenix, Arizona	December, 1974
Charleston, West Virginia	June, 1975
Birmingham, Alabama	December, 1975
Wichita, Kansas	June, 1976
San Antonio, Texas	December, 1976
Nashville, Tennessee	June, 1977
Santa Fe, New Mexico	December, 1977
Tulsa, Oklahoma	June, 1978
Phoenix, Arizona	December, 1978
Lexington, Kentucky	June, 1979
Los Angeles, California	December, 1979
Vail, Colorado	June, 1980
Dallas, Texas	December, 1980
Casper, Wyoming	June, 1981
Santa Fe, New Mexico	December, 1981
Columbus, Ohio	June, 1982
New Orleans, Louisiana	December, 1982
Tulsa, Oklahoma	June, 1983
Orlando, Florida	December, 1983
San Diego, California	June, 1984
Santa Fe, New Mexico	December, 1984
Austin, Texas	June, 1985
New Orleans, Louisiana	December, 1985
Anchorage, Alaska	June, 1986
Salt Lake City, Utah	December, 1986
Coeur d'Alene, Idaho	June, 1987
Santa Fe, New Mexico	December, 1987
Colorado Springs, Colorado	June, 1988
Overland Park, Kansas	December, 1988
Reno, Nevada	June, 1989
Tulsa, Oklahoma	December, 1989
Bismarck, North Dakota	June, 1990
Phoenix, Arizona	December, 1990
Casper, Wyoming	June, 1991
New Orleans, Louisiana	December, 1991
Wichita, Kansas	June, 1992
Salt Lake City, Utah	December, 1992
Tulsa, Oklahoma	June, 1993
Anchorage, Alaska	September, 1993
Santa Fe, New Mexico	December, 1993
Charleston, West Virginia	March, 1994
Breckenridge, Colorado	June, 1994
Washington, D.C	September, 1994
Long Beach, California	December, 1994
Washington, D.C	March, 1995
Charleston, West Virginia	June, 1995
Denver, Colorado,	September, 1995
Houston, Texas	December, 1995
Washington, D.C	March, 1996
Indianapolis, Indiana	May, 1996
Omaha, Nebraska	September, 1996
Las Vegas, Nevada	December, 1996
Washington, D.C	March, 1997
Oklahoma City, Oklahoma	June, 1997
San Antonio, Texas	September, 1997
Santa Fe, New Mexico	December, 1997
Washington, D.C	March, 1998
Overland Park, Kansas	June, 1998
Jackson Hole, Wyoming	September, 1998
Salt Lake City, Utah	December, 1998
Washington, D.C	March, 1999
Jackson Hole, Wyoming	June, 1999
Wichita, Kansas	September, 1999
New Orleans, Louisiana	December, 1999
Washington, D.C	March, 2000
Lexington, Kentucky	June, 2000
Dallas, Texas	September, 2000
San Antonio	December, 2000
Washington, D.C	March, 2001
Anchorage, Alaska	May, 2001
Oklahoma City, Oklahoma	September, 2001
Santa Fe, New Mexico	December, 2001
Traverse City, Michigan	June, 2002
Little Rock, Arkansas	December, 2002
Williamsburg, Virginia	May, 2003
Reno, Nevada	October, 2003
Columbus, Ohio	May, 2004
Oklahoma City, Oklahoma	October, 2004
Anchorage, Alaska	May, 2005
Jackson Hole, Wyoming	September, 2005
Billings, Montana	May, 2006
Austin, Texas	October, 2007
Point Clear, Alabama	May, 2007
New Orleans, Louisiana	September, 2007
Calgary, Alberta	May, 2008
Santa Fe, New Mexico	November, 2008
Anchorage, Alaska	May, 2009
Biloxi, Mississippi	October, 2009

AMERICAN OVERSIGHT

Tucson, Arizona	May, 2010
Lexington, Kentucky	October, 2010
Bismarck, North Dakota	May, 2011
Buffalo, New York	October, 2011
Vancouver, British Columbia	June, 2012
San Antonio, Texas	October, 2012
Point Clear, Alabama	May, 2013
Long Beach, California	November, 2013
Biloxi, Mississippi	May, 2014
Columbus, Ohio	October, 2014
Salt Lake City, Utah	May, 2015
Oklahoma City, OK	September, 2015
Denver, CO	May, 2016
Little Rock, AR	October, 2016
Oklahoma City, OK	May 2017
Pittsburgh, PA	October 2017
Oklahoma City, OK	May 2018
Coeur d'Alene, ID	October 2018
Oklahoma City, OK	May 2019
Medora, North Dakota	August 2019
Virtual Meeting	June-July 2020
Virtual Meeting	November 2020
Virtual Meeting	May 2021
Santa Fe, New Mexico	November 2021

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, November 3, 2021
3:00 PM CT

1. Call to Order and Roll Call **Chair, Wayne Christian**

Members Present:	Members Absent:
John Baza	Larry Bengal
Charlie Burd	
Wayne Christian	
Lynn Helms	
Jeremy Price	
Adrienne Sandoval	
Ken Wagner	
Adam Wygant	

2. Minutes of Previous Meeting

Chair Wayne Christian asked if there was any objection to approval of the October 6, 2021, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on administrative matters. No action was taken.

4. Review of Agenda for 2021 Annual Conference

The committee reviewed plans for the upcoming 2021 Annual Conference in Santa Fe, New Mexico, November 7-9, 2021.

5. Other Business

The committee had no other business.

6. Adjournment

With its business concluded, the committee adjourned the meeting at 3:15 PM CT.

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, March 01, 2022 7:46 PM EST
To: John Baza <johnbaza@utah.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>; Jeremy Price <jeremy.price@alaska.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Adam Wygant <wyganta@michigan.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] Steering Committee Meeting, Wednesday, March 2, 2022, 3:00 PM CT
Attachment(s): "Agenda 03.02.2022.pdf","Minutes 02-02-22.pdf","FracFocus Trademark Assignment.pdf"

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Dear Steering Committee Members,

Attached are the agenda for tomorrow's meeting and the minutes of the last meeting. Also attached is a draft document concerning the FracFocus trademark, which we will discuss tomorrow.

Amy will share the Zoom link with us and add the attachments to the calendar appointment.

Please let me know if you have any questions.

Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

AMERICAN OVERSIGHT

AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, March 2, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**

2. **Minutes of Previous Meeting**

3. **Executive Director's Report**
   a. **Update on REGROW Act Implementation**
   b. **Plans for Annual Business Meeting in Oklahoma City**
   c. **Dates for Annual Conference in Baltimore (October 16-18)**

4. **Assignment of IOGCC's Interest in the FracFocus Trademark to GWPC**

5. **Other Business**

6. **Adjournment**

AMERICAN OVERSIGHT

ASSIGNMENT OF TRADEMARKS AND TRADEMARK REGISTRATION RIGHTS

This Assignment of Trademarks and Trademark Registration (this "Assignment") is entered into and effective this ___ day of March, 2022, by and between Ground Water Protection Council, a non-profit corporation of Oklahoma located at 13308 N. MacArthur Blvd Oklahoma City, Oklahoma 73120 (GWPC) and Interstate Oil and Gas Compact Commission, a multistate governmental agency with an address of 900 NE 23rd Street Oklahoma City Oklahoma 73105, (IOGCC) each individually referred to as a "Party" and collectively referred to as the "Parties". All capitalized terms that are used but not defined herein have the meanings assigned to them in the Agreement.

WHEREAS, the parties are co-owners of the trademark and service mark registrations set forth on Schedule 1 attached hereto (the "Registrations") for the trademark and service mark (the "Registered Trademarks") listed in the Registration, and have adopted, have used and are currently using the Registered Trademarks; and

WHEREAS, GWPC has agreed to acquire all of IOGCC's right, title and interest in and to the Registered Trademarks and IOGCC has agreed to transfer to GWPC all of IOGCC's right, title and interest in and to the Registered Trademarks:

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. For good and valuable consideration, IOGCC does hereby assign, transfer, convey and set over unto GWPC its full right, title and interest, including common law rights, in, to and under the Trademarks, including all goodwill accrued in connection and associated therewith, and the exclusive right to enforce the Trademarks in the sole name of GWPC, including the right to sue for past infringement if any there may be.

2. This instrument shall be binding upon IOGCC and its successors and assigns, and shall inure the benefit of GWPC and its successors and assigns.

[Signatures appear on the following page.]

AMERICAN OVERSIGHT

IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound thereby, have executed this Assignment as of the date first written above.

Ground Water Protection Council

By: _____
Name: _____
Title: _____

Interstate Oil and Gas Compact Commission

By: _____
Name: _____
Title: _____

AMERICAN OVERSIGHT

SCHEDULE 1

Registered Trademarks:

1. U.S. Reg. No. 4142155 for



Registered May 15, 2012

2. Canadian Reg. No. TMA852227 for



Registered May 31, 2013

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, February 2, 2022
3:00 PM CT

1. Call to Order and Roll Call **Chair, Ken Wagner**

Members Present:
John Baza
Wayne Christian
Lynn Helms
Jeremy Price
Adrienne Sandoval
Ken Wagner
Adam Wygant

Members Absent:

2. Minutes of Previous Meeting

Chair Ken Wagner asked if there was any objection to approval of the minutes of the January 5, 2022, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on various administrative matters. No action was taken.

4. Update on REGROW Act Implementation

The committee discussed the questions raised by DOI's announcement earlier in the week of the phased approach to the formula grant allocations. Wrotenbery will draft a summary—for potential future use—of areas in which DOI appears to be deviating from the language of REGROW.

Wrotenbery noted that she will join Adam Peltz of EDF and Ryan Ullman of IPAA on February 10, 2022, in providing a briefing on orphan wells for Congressional staff. The briefing will be hosted by the offices of Senators Luján and Cramer.

5. 2022 Annual Conference—Baltimore Royal Sonesta Harbor Court

Wrotenbery described staff's findings on potential locations for the annual conference.

Motion by Ken Wagner to hold the annual conference in Baltimore, Maryland.
Second by Adrienne Sandoval.
Motion passed unanimously.

AMERICAN OVERSIGHT

6. Other Business

Adam Wygant inquired about the scheduling of the next Nominating Committee meeting. Wrotenbery responded that the meeting will be scheduled soon.

7. Adjournment

With its business concluded, the committee adjourned the meeting at 3:55 PM CT.

AMERICAN OVERSIGHT

From: Hilary Olson <holson@utexas.edu>
Sent: Wednesday, May 11, 2022 6:53 PM EDT
To: Scott Anderson <sanderson@edf.org>; Rob Boulware <boulwarer@srcx.com>; jerry_eubank@oxy.com <jerry_eubank@oxy.com>; Gaines, Dean <Dean.Gaines@apachecorp.com>; lhelms@nd.gov <lhelms@nd.gov>; Mike Leonard - DNR <mike.leonard@state.co.us>; meadows@api.org <meadows@api.org>; Kevin O'Scannlain <oscannlaink@api.org>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Nicole.StAmand@shell.com <Nicole.StAmand@shell.com>; Wei Wang <wei.wang@rrc.texas.gov>; bruce.wilcoxon@bakerhughes.com <bruce.wilcoxon@bakerhughes.com>; lisa.winn@exxonmobil.com <lisa.winn@exxonmobil.com>
CC: Coy, Dori L <dcoy@mail.utexas.edu>
Subject: [EXTERNAL] TOPCORP Advisory Council Meeting - scheduling for early June

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

to:
Scott Anderson, EDF
Rob Boulware,Seneca
Jerry D Eubank, OXY
Dean Gaines, Apache
Lynn D. Helms, ND
Mike Leonard, CO DNR
Stephanie Meadows, API
Kevin O'Scannlain, API
Adrienne Sandoval, NM EMNRD
Nicole St. Amand, Shell
Wei Wang, RRC of Texas
Bruce Wilcoxon, Baker Hughes
Lisa Winn, ExxonMobil

Dear TOPCORP Advisory Council members,

Thank you for your continued support of the TOPCORP training program for oil and gas field inspectors and regulatory personnel.

I would like to schedule a zoom call to update youon our program during the first half of 2022, plans for finishing out the year, and new initiatives. We need an hour for the meeting. I am looking at several time slots / dates in early June. **Please click on this link:**

https://www.when2meet.com/?15641378-1ssEH

and let me know your availability on those dates / times and we will schedule the meeting accordingly.

Please let me know if you have any questions in the meantime.

Cheers,
Hilary

--
Hilary Clement Olson, Ph.D. (holson@utexas.edu)
The University of Texas at Austin
512-653-8356 (mobile)

Associate Professor of Instruction, Department of Petroleum and Geosystems Engineering www.pge.utexas.edu (my faculty webpage)

Executive Director and UT Austin Program Lead, TOPCORP Oil and Gas Inspector Training Program www.topenergytraining.com

Program Lead, K-12 Energy Outreach - Hildebrand Initiative
K-12 Teacher Professional Development - Summer Institute
High School Online Energy Curriculum -www.energyexcursions.com

Director of Education, Training and Outreach, Center for Subsurface Energy and the Environment - https://csee.engr.utexas.edu/

mailing address: 200 E. Dean Keeton STOP C0304, Austin, Texas 78712
physical location: CPE Building, corner of Dean Keeton and Speedway (Office CPE 5.168A)

AMERICAN OVERSIGHT

Subject: [EXTERNAL] TOPCORP advisory council
Location: https://psu.zoom.us/j/92843018016

Start: Wednesday, November 17, 2021 2:00 PM EST
End: Wednesday, November 17, 2021 3:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Ollendyke, Dana Jane
Required Attendees: Ollendyke, Dana Jane <djm428@psu.edu>; sanderson@edf.org <sanderson@edf.org>; Rob Boulware <boulwarer@srcx.com>; jerry_eubanks@oxy.com <jerry_eubanks@oxy.com>; nicole.stamand@shell.com <nicole.stamand@shell.com>; dean.gaines@apachecorp.com <dean.gaines@apachecorp.com>; lhelms@nd.gov <lhelms@nd.gov>; lisa.winn@exxonmobil.com <lisa.winn@exxonmobil.com>; mike.leonard@state.co.us <mike.leonard@state.co.us>; Adrienne.Sandoval@state.nm.us <Adrienne.Sandoval@state.nm.us>; Kevin O'Scannlain <OScannlainK@api.org>; Wei.Wang@rrc.texas.gov <Wei.Wang@rrc.texas.gov>; bruce.wilcoxon@bhge.com <bruce.wilcoxon@bhge.com>; meadows@api.org <meadows@api.org>; Coy, Dori L <dcoy@mail.utexas.edu>; Larry Harlan (topcorpllh@gmail.com) <topcorpllh@gmail.com>; jerry_eubank@oxy.com <jerry_eubank@oxy.com>; bruce.wilcoxon@bakerhughes.com <bruce.wilcoxon@bakerhughes.com>

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Or iPhone one-tap (US Toll): +13017158592,92843018016# or +13126266799,92843018016#

Or Telephone:
Dial:
+1 301 715 8592 (US Toll)
+1 312 626 6799 (US Toll)
+1 646 876 9923 (US Toll)
+1 253 215 8782 (US Toll)
+1 346 248 7799 (US Toll)
+1 669 900 6833 (US Toll)
Meeting ID: 928 4301 8016

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Update on Statutory Authority and Response Plan
Location: Microsoft Teams Meeting

Start: Friday, October 01, 2021 4:00 PM EDT
End: Friday, October 01, 2021 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Verner, Frederick C
Required Attendees: Verner, Frederick C <fredverner@chevron.com>; Winn, Lisa <lisa.winn@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Matthias Sayer <Matthias.Sayer@nglep.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Comiskey, Cody <cody.comiskey@chevron.com>; Doug Klepacki <dklepacki@cimarex.com>; Perez, Yolanda <Yolanda_Perez@oxy.com>; Ocean.Munds-Dry@conocophillips.com <Ocean.Munds-Dry@conocophillips.com>; John Smitherman <jrs@nmoga.org>; Denard, Melissa Marie <melissa.m.denard@exxonmobil.com>

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Adrienne, Dylan and Tiffany,
Lisa and I would like some time to talk about your position regarding the previously proposed authority you have to initiate action in response to IS and to set up time to share our “Immediate Response” framework. If this time is not good please propose an alternative. Lisa and I are very free on Monday.
Fred

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting
Join with a video conferencing device
chevron@m.webex.com
Video Conference ID: 116 178 158 3
Alternate VTC instructions
Or call in (audio only)
+1 281-810-1223,,542121102# United States, Houston
Phone Conference ID: 542 121 102#
Find a local number | Reset PIN
Learn More | Meeting options

AMERICAN OVERSIGHT

From: James Griffin <James_Griffin@eogresources.com>
Sent: Friday, March 04, 2022 3:23 PM EST
To: jstovall@blm.gov <jstovall@blm.gov>; CLayton@blm.gov <CLayton@blm.gov>; cwalls@blm.gov <cwalls@blm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
CC: Patrick Padilla <Patrick_Padilla@eogresources.com>
Subject: [EXTERNAL] Updated R-111 Document Review from JITC

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Hello All,

I hope everyone is doing well today and excited for the weekend and Spring Break. I am reaching out to see if there is a time at the end of March or early to mid-April that may work for a review of our November 4th draft of R-111P in Santa Fe, NM. We'd like to hear feedback from both BLM and OCD. The intent is to get regulatory feedback and incorporate it into a final document that O&G / Potash / OCD / BLM all stack hands on. For now, I can throw out a tentative date of 3/31/22 for a place holder at the EOG office in Santa Fe.

Tentative discussion items I've noted are the 3-String in the Capitan Reef and remediation effectiveness of an uncemented shoe. We will be prepared to discuss these issues and others that you have.

Thanks,

eog resources
James Griffin
Drilling Engineer
EOG Resources Midland
Office: 432-686-3650
Cell: 432-638-5269
Email: James_Griffin@EOGResources.com

AMERICAN OVERSIGHT

From: Larry Harlan <topcorpllh@gmail.com>
Sent: Monday, January 24, 2022 7:56 PM EST
To: Scott Anderson <sanderson@edf.org>; Rob Boulware <boulwarer@srcx.com>; Eubank, Jerry D <Jerry_Eubank@oxy.com>; Nicole.StAmand@shell.com <Nicole.StAmand@shell.com>; Gaines, Dean <Dean.Gaines@apachecorp.com>; Helms, Lynn D. <lhelms@nd.gov>; Winn, Lisa <lisa.winn@exxonmobil.com>; Leonard - DNR, Mike <mike.leonard@state.co.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kevin O'Scannlain <oscannlaink@api.org>; Wei Wang <wei.wang@rrc.texas.gov>; Wilcoxon, Bruce <bruce.wilcoxon@bakerhughes.com>; Stephanie Meadows <meadows@api.org>
CC: Hilary Olson <holson@utexas.edu>
Subject: [EXTERNAL] Update

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TOPCORP Advisory Council

I want to update you on a change happening at TOP Energy Training.

The Top Energy Training leadership team and I have reached a mutual agreement for the transition of the Executive Director position. Dr. Hilary Olson, with the University of Texas at Austin's Hildebrand Department of Petroleum and Geosystems Engineering, will assume the role of Executive Director and become the primary contact for Top Energy Training and TOPCORP. Hilary is copied on this note and can be reached at that email address.

I want to thank you all for serving on the Advisory Council and for your support and advice. I'm sure Hilary will enjoy the same relationship. I have enjoyed my four and one-half years working with TOPCORP and wish you all continued success.

Larry L. Harlan

email: topcorpllh@gmail.com
www.TopEnergyTraining.com

AMERICAN OVERSIGHT

From: Bob Pearson <bob.pearson@glynnresources.com>
Sent: Sunday, November 28, 2021 1:47 PM EST
To: Nathaly Famiglietti <nfamiglietti@spe.org>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Gerald Palanca <Gerald.Palanca@aer.ca>; David Shackleton <dshackleton@idsdatanet.com>; SPEJohanadunlop <SPEJohanadunlop@gmail.com>; Lori Wrotenbery <lwrotenbery@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Victoria Jones <vjones@spe.org>; Adam Peltz <apeltz@edf.org>; Lanny Schoeling <lschoeling73@gmail.com>; dlyon@edf.org <dlyon@edf.org>
Subject: [EXTERNAL] Virtual Introductions & Saving a Date for the 3rd 1Q2022 Virtual Event on (Methane) Emissions Reduction o the Regulators Perspectives

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Hi Nathaly,

Trust you had a good Thanksgiving and are now ready to get back into the planning high profile Virtual Events for 1Q22.

FYI I have identified two North American Regulator Representatives who would be willing to work with you on a Virtual SPE Event in late Feb or early Mar 2020 to give A North American Regulators Perspective on (Methane) Emissions Reporting & Abatement.

This virtual event will hopefully feature:

- Adrienne Sandoval from New Mexico EM&NR Dept of Oil Conservation
- Gerald Palance from the AER in Canada

I have several possible moderators in mind, but think that is less critical than getting a tentative date tied down, since both speakers have many other obligations.

So could you send out a Doodle Poll with possible dates and times in late Feb or early Mar, please.

Even though this is outside of the pre-approved 2021 SPE-IOGCC program, it is a follow-up to Webinar #2 on Methane Monitoring and Reduction Technologies and, therefore, I believe that:

- We should aim for a similar time slot within the work day on the East & West Coast of the US
- Keep the key IOGCC players in the loop when selecting possible dates & times.

This would follow-on from the other two events that we were discussing with Johana D et al during earlier in the month:

- Feb 7th - Introduction to the new SPE Discussion Group on (Methane) Emissions Reporting & Abatement
  - Speakers TBD in mid-Dec but possibly David Shackletom from the Gaia MWM Team & Bob Pearson or A.N Other from SPE P&FAC
  - Moderator: possibly Tony Zamara from Gaia Team in California or Deb Ryan
- Feb 21st - (Methane) Emissions Reporting & Abatement - Who are you going to call? - Service Providers' Perspective
  - As per Johana's suggestions - a word-play on Ghostbusters!
  - Speakers TBD in mid-Dec but, potentially, as Johana suggested:
  - Neil Flemming, Asset Integrity Engineering [Sharjah/UAE - running thousands of pipeline, with a fully OGMP 2.0 compliant methodology - A thought leader
  - https://www.linkedin.com/in/neil-flemming-70239436/
    MD Asset Integrity Eng. UAE
  - Georges Tijbosch, Senior Advisor, MiQ - certifying methane emissions reduction
  - Snr Advisor with System IQLtd in London & MiQ JV with with the Rocky Mountain Institute [one of the best technical NGOshttps://www.linkedin.com/in/georges-tijbosch-4466b749/
  - Moderator: Darcy Spady or JoshEtkind

Have a great week.
Regards
Bob
R. M. Pearson PEng
Technical Director
Glynn Resources Ltd.
(+1) 5878946255

AMERICAN OVERSIGHT

From: Perez, Yolanda <Yolanda_Perez@oxy.com>
Sent: Wednesday, March 23, 2022 3:21 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Volunteer

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Good afternoon,

Wanted to let you know that I obtained management approval for Oxy (OGRIDs 16696, 192463, and 157984) to volunteer to work with OCD on our C-115B/C-115 reporting anomalies. Please let me know what all this will entail and what are next steps to begin working with you on this.

Thank you for the opportunity!

Sincerely,
Yolanda Perez
Sr. Regulatory Affairs Consultant
Occidental Oil & Gas
5 Greenway Plaza Suite 110 Houston, TX 77046
Room 11.023
Office (713) 497-2069
Cell (281) 793-1680
yolanda_perez@oxy.com

AMERICAN OVERSIGHT

Subject: [EXTERNAL] Waste Rule Operator Forum - "Operators Only"
Location: Microsoft Teams Meeting

Start: Tuesday, March 15, 2022 3:00 PM EDT
End: Tuesday, March 15, 2022 6:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kathy Ytuarte
Required Attendees: Kathy Ytuarte <Kathy@nmoga.org>; jtew@aecnm.com <jtew@aecnm.com>; sdutton@aecnm.com <sdutton@aecnm.com>; lgarvis@burnettoil.com <lgarvis@burnettoil.com>; hdissmore@burnettoil.com <hdissmore@burnettoil.com>; vhatley@burnettoil.com <vhatley@burnettoil.com>; sarah.ferreyros@cdevinc.com <sarah.ferreyros@cdevinc.com>; Troy.Driller@cdevinc.com <Troy.Driller@cdevinc.com>; eag.cb@cdevinc.com <eag.cb@cdevinc.com>; fredverner@chevron.com <fredverner@chevron.com>; jerry.harrington@chevron.com <jerry.harrington@chevron.com>; morgan@chevron.com <morgan@chevron.com>; sowen@chevron.com <sowen@chevron.com>; ruth.shockency@conocophillips.com <ruth.shockency@conocophillips.com>; jennifer.knowlton@conocophillips.com <jennifer.knowlton@conocophillips.com>; jeremy.norton@conocophillips.com <jeremy.norton@conocophillips.com>; leslie.d.sanders@cop.com <leslie.d.sanders@cop.com>; luke.wittenbach@coterra.com <luke.wittenbach@coterra.com>; mollie.schall@crestwoodlp.com <mollie.schall@crestwoodlp.com>; moshe.wolfe@crestwoodlp.com <moshe.wolfe@crestwoodlp.com>; dblack@mspartners.com <dblack@mspartners.com>; nikkimiller21@yahoo.com <nikkimiller21@yahoo.com>; Caitlin.ohair@dvn.com <Caitlin.ohair@dvn.com>; rebecca.deal@dvn.com <rebecca.deal@dvn.com>; chelsey.green@dvn.com <chelsey.green@dvn.com>; erin.aas@duganproduction.com <erin.aas@duganproduction.com>; sheilas@forl.com <sheilas@forl.com>; roverbey@fmellc.com <roverbey@fmellc.com>; sgomez@logosresourcesllc.com <sgomez@logosresourcesllc.com>; mcox@logosresourcesllc.com <mcox@logosresourcesllc.com>; kmcwilliams@logosresourcesllc.com <kmcwilliams@logosresourcesllc.com>; jwiggins@logosresourcesllc.com <jwiggins@logosresourcesllc.com>; mattbuckles@mec.com <mattbuckles@mec.com>; kdavidson1@marathonoil.com <kdavidson1@marathonoil.com>; lrucker@marathonoil.com <lrucker@marathonoil.com>; pthompson@merrion.bz <pthompson@merrion.bz>; savarello@mspartners.com <savarello@mspartners.com>; mdegenfelder@mspartners.com <mdegenfelder@mspartners.com>; dtadlock@mustangresourcesllc.com <dtadlock@mustangresourcesllc.com>; John Smitherman <JRS@nmoga.org>; Robert McEntyre <robert@nmoga.org>; yolanda_perez@oxy.com <yolanda_perez@oxy.com>; jbailey@sanmateomidstream.com <jbailey@sanmateomidstream.com>; schapman@spurenergy.com <schapman@spurenergy.com>; steve.kahn@wsp.com <steve.kahn@wsp.com>; lisa.winn@exxonmobil.com <lisa.winn@exxonmobil.com>; tiffany.yancey@exxonmobil.com <tiffany.yancey@exxonmobil.com>; lance.abbott@exxonmobil.com <lance.abbott@exxonmobil.com>; eric.m.young@exxonmobil.com <eric.m.young@exxonmobil.com>; Lynn Collier <Lynn.Collier@duganproduction.com>; adrienne.sandoval@state.nm.us <adrienne.sandoval@state.nm.us>; Jason Conway <jason.conway@matadorresources.com>; MErnest@matadorresources.com <MErnest@matadorresources.com>; ocean.munds-dry@conocophillips.com <ocean.munds-dry@conocophillips.com>; john.alexander (john.alexander@duganproduction.com) <john.alexander@duganproduction.com>; Matt Henderson <mhenderson@hilcorp.com>
Optional Attendees: Doug Ackerman <Doug@nmoga.org>

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Microsoft Teams meeting

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From: John Smitherman <JRS@nmoga.org>
Sent: Friday, March 18, 2022 6:07 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Perez, Yolanda <Yolanda_perez@oxy.com>
Subject: [EXTERNAL] Waste Rule workshop follow up
Attachment(s): "March Operator Forum Follow-up.docx"

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Director Sandoval,

Please find attached some follow-up questions for you and your staff. We thank you again for the time on Tuesday to discuss reporting issues. We stand ready to help with the continued roll-out of these new reporting requirements.

Please feel free to reach out to me with any questions.

All the best,

John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer

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NEW MEXICO OIL AND GAS ASSOCIATION

P.O. Box 1864, Santa Fe, New Mexico 87505

March 18, 2022

Director Sandoval,

NMOGA really appreciate your and your staff's time during the NMOGA hosted operator forum on March 15th. NMOGA also really appreciates the offer to have companies volunteer to work with the OCD to audit their filings and we will do what we can to encourage our members to take advantage of that offer.

Industry continues to think about some of the issues that were brought up during the meeting and, considering the short time we all must get this right before the public portal opens, we thought it best to bring some of the issues to your attention now so you/your staff can address them as needed. Industry feels the rules regarding how gas volumes are filed should leave as little room for interpretation as practical.

1) As per our conversation, Industry seeks guidance and clarity regarding how to report volumes on both the C115 and the C115B. Such clarity will benefit all parties as reported volumes will ultimately be used to calculate both the total Production volume and the Lost Gas volume. These are, of course, essential to calculating the Gas Capture Percentage. Some of the discussion surrounding how to file certain categories of gas at our meeting on March 15th caused significant concern. There seemed to be a lack of clarity as to how or whether some gas volumes that will be reported on the C115B, but have not historically been reported on the C115, will be included in the gas volumes to be reported on the C115 under this new Waste Rule. In particular:
    a. Pneumatics – clearly gas volumes exhausted from pneumatic devices that are subsequently vented will be reported on the C115B. It seemed very unclear whether these same volumes should be added to the volumes reported on the C115 and, if reported, which category should be used. It almost seemed like it was an operator option to include these volumes on the C115. While we agree that such volumes, if included in the C115 reported volumes, should be reported under the "U" code (Used on Property), having this be an option seems likely to lead to confusion and unreliable data. Not including these volumes in volumes reported on the C115 would keep the C115 conceptually unchanged as seemed to be OCD's preference expressed during the hearing. NMOGA urges clear guidance on this important aspect.
    b. Stock tank vapors – similarly, it seemed unclear whether these gas volumes, which will be reported on the new C115B, should be also added to the volumes reported on the C115. Again, not including these volumes would leave the C115 conceptually unchanged. If they are to be reported, we seek guidance as to which category to use on the C115.
2) NMOGA would like some clarification on how the category of "G" Gas lift on the C115 will be used. For many years gas lift was an artificial lift technique that was rarely used in SENM. Now it is almost universally used for new horizontal wells. We have been having a detailed discussion of how gas lift volumes should be accounted for and reported

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within our operator group. It is trickier that it first appears, and it can really make a mess of gas capture calculations if not done correctly. Please clarify what OCD's expectations are for gas volumes reported under the "G" code on the C115. Is a volume reported under the "G" category on C-115 included to determine total Produced Gas volume? Is this gas that is purchased to use for gas lift? Is it gas from a production facility that is redirected back to wells on the same property for gas lift? Is it gas sold between an operator's facilities to be able to use for gas lift? This has not been as important an issue until now that these reported volumes could cause errors in total Produced Gas volumes or Lost Gas volumes. Your guidance is requested on this important issue.

3) 19.15.27.8.G(4) requires submission of the C115B to the SLO. I don't believe that we know what form that submission is supposed to be in (Excel or EDI format like OCD). When the C115B was first envisioned, Industry's expectation was that it would be first submitted as an Excel spreadsheet. Now that an EDI flat file is to be used, if the SLO is not prepared to process that data, the data will be unusable for SLO staff. Has your staff been working with SLO staff to prepare them for receiving the new data?
4) If we understand correctly, OCD is going to "lockdown" the ability to modify the C115 after May 2022 without administrative approval (notice?). Will the amended reports after that period be the full amended report (like current protocol) or only the amended information, i.e. line item changing? If it is the second case, companies need advance notice to change their processes. Any feedback on this would be helpful.
5) Believe it or not, rounding can be a really important issue when reporting, especially small volumes. We missed the opportunity to ask about that on Tuesday. Apparently, the C115 requires rounding UP in all instances but there is no guidance on rounding for the C115B. The preference is normal rounding rules (=> 0.5 rounds up, < 0.5 rounds down). When we look at how this will affect thousands of low volume gas wells in NWNM, operators may be erroneously reporting a value that is an order of magnitude greater than actual venting numbers if they actually vent 0.1 mcf but are required to report "1". I believe that will cause a lot of misinterpretation and poor optics, all based on inaccurate reporting due to the rounding requirements. Can we get this clarified from OCD before we submit too many reports?

We would greatly appreciate being able to discuss some of these issues with your staff so we can work through them together quickly. You might be surprised at the amount of discussion that we have had to try to comply as we have discovered some non-intuitive realities as respects proper calculation of gas capture percentage. It is more complicated than it first appears but if we get the reporting right and all understand how to process the results, we will have a really solid number that we can all defend.

Thank you for your time and attention to these important issues.

All the best,

John Smitherman

Senior Advisor – Petroleum Engineer

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AGENDA
STEERING COMMITTEE
Videoconference
Wednesday, March 2, 2022
3:00 PM CT

1. **Call to Order and Roll Call** — **Chair, Kenneth Wagner**

2. **Minutes of Previous Meeting**

3. **Executive Director's Report**
   a. **Update on REGROW Act Implementation**
   b. **Plans for Annual Business Meeting in Oklahoma City**
   c. **Dates for Annual Conference in Baltimore (October 16-18)**

4. **Assignment of IOGCC's Interest in the FracFocus Trademark to GWPC**

5. **Other Business**

6. **Adjournment**

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AGENDA
STEERING COMMITTEE
IOGCC 2021 ANNUAL CONFERENCE
Inn at Loretto, Penthouse Suite
Santa Fe, New Mexico
Monday, November 8, 2021
12:00–1:15 PM MT

1. **Call to Order and Roll Call** — **Chair, Wayne Christian**
2. **Minutes of Previous Meeting**
3. **Executive Director's Report**
4. **Strategic Plan**
5. **Finance Committee Report for Business Session**
   a. **Proposed 2022 Operating Budget and Capital Improvements**
   b. **2021 Financial Statements (through Q3)**
6. **Dates/Location of 2022 Annual Conference**
7. **Other Business**
8. **Adjournment**

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Subject: Agenda Setting
Location: Microsoft Teams Meeting

Start: Monday, March 14, 2022 6:00 PM EDT
End: Monday, March 14, 2022 6:15 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; John Smitherman <JRS@nmoga.org>; Perez, Yolanda <Yolanda_Perez@oxy.com>

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IOGCC Special Meeting
Colorado Springs, CO
Agenda

Sunday, August 15, 2021

Time	Event	Location
6:00 PM–6:30 PM	**Reception**	**Remingtons**
6:30 PM—8:00 PM	**Welcome/Dinner**	**Remingtons**

Monday, August 16, 2021

Time	Event	Location
7:30 AM—8:30 AM	**Breakfast**	**Grand Rivers**
8:30 AM—9:45 AM	**IOGCC Business**	**Grand Rivers**

Introductions

Update of Official Representative Handbook (Draft)

Process for Committee Appointments/Directory Updates

9:45 AM—10:00 AM	**Break**	
10:00 AM—11:15 AM	**IOGCC Business**	**Grand Rivers**

Discussion of Assessments

Other Administrative Items

11:15 AM—12:00 PM	**Lunch**	**Grand Rivers Terrace**
12:15 PM—2:15 PM	**Guided Tour by Bus**	**Garden of the Gods**
2:30 PM—3:45 PM	**IOGCC Business**	**Grand Rivers**

Discussion of Resolutions Process

Review of Progress on Key Issues Identified in Medora (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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3:45 PM—4:00 PM	**Break**	
4:00 PM—5:15 PM	**IOGCC Business**	**Grand Rivers**

Plan for Strategic Plan Update

Review and Discussion of Prior Goal Statements and 2021 Member Survey Results

Tuesday, August 17, 2021

Time	Event	Location
7:30 AM—8:30 AM	**Breakfast**	**Grand Rivers**
8:30 AM—9:45 AM	**IOGCC Business**	**Grand Rivers**

Orphan Well Funding Legislation

Other Federal Updates (Legislation, Regulation, Memoranda of Understanding)

9:45 AM—10:00 AM	**Break**	
10:00 AM—11:30 PM	**IOGCC Business**	**Grand Rivers**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs
- Energy Resources, Research and Technology—Adam Peltz, Vice-Chair
- Environment and Safety—Leslie Savage, Chair and Robyn Strickland, Vice-Chair
- Legal and Regulatory Affairs—Kimberly Wurtz, Vice-Chair
- Public, Coastal, and Tribal Lands—Virginia Hullinger, Vice-Chair
- Public Outreach—Katie Haarsager, Vice-Chair

Preparations for Annual Conference

11:30 AM—11:45 PM **Wrap Up and Adjourn**

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DOI – Bipartisan Infrastructure Law
Sec. 40601, P.L. 117-58 - Orphaned Well Site Plugging, Remediation, and Restoration
Annex to the Initial State Grants Guidance

Overview: $4.3B orphan well program is historic, new and critical to clean up legacy pollution. These sections provide instructions and awareness to states on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)
Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

2. Conflict of Interest Disclosure
Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict of interest exists at the time of submission.
(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

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(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. states expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. states must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. state. Prior to application submission, U.S. state applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the

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state intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability
Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process
The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict of Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arise during the life of their Federal award, including those reported to them by

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any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict of interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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NOTICE OF HEARING

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
April 14, 2022
9:00 A.M.

During the COVID-19 Public Health Emergency, state buildings are closed to the public and meetings will be conducted remotely. The Oil Conservation Commission meeting will be held via Webex Meeting platform. The public meeting can be accessed by using the following link and/or meeting information:

OCC Meeting April 14, 2022
Event:

Type:	Unlisted Event
Event address for attendees:	https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e0eb638e57b08f2375219f33dcf6a42f2
Date and time:	Thursday, April 14, 2022 9:00 am Mountain Daylight Time (Denver, GMT-06:00)
Duration:	9 hours

Description:

Event number:	2495 201 9096
Event password:	mbGhimuJ352
Video Address:	24952019096@nmemnrd.webex.com You can also dial 173.243.2.68 and enter your meeting number.
Audio conference:	To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. United States Toll +1-408-418-9388 Show all global call-in numbers Access code: 2495 201 9096

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at (505) 470-5480 or through the New Mexico Relay Network at 1-800-659-1779 by **April 4, 2022**. Public documents can be provided in various accessible formats. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at *www.emnrd.nm.gov/ocd*.

The following items are for discussion and possible action:

Status conference and adoption of final order in Case No. 21629 De Novo Case No. 21744:
Application of Cimarex Energy Co. for Hearing De Novo of Case No. 21629, Eddy County, New Mexico (Evidentiary Hearing on Invalidation of Division Order)

Update on Case No. 21872: Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico

Case No. 22473: Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico. Applicant in the above-styled cause seeks an order from the Division approving the production allocation of minerals in the Bone Spring formation (WC-025 G-08 S263412K; Bone Spring [96672]) underlying a standard 280-acre, more or less, horizontal spacing and proration unit ("HSU")

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comprised of the E/2 E/2 of Section 29 and the NE/4 NE/4 and Lot 1 of irregular Section 32, Township 26 South, Range 35 East, NMPM, in Lea County, New Mexico, and Lot 1 of irregular Section 25, Block C24, in Loving County, Texas. The HSU will be dedicated to the El Campeon Fed Com 204H well, to be horizontally drilled from an approximate surface hole location 332' FSL and 620' FEL of Section 20, T26S-R35E, Lea County, New Mexico, to an approximate bottom hole location 10' FSL and 1912' FEL of Section 25, Block C24, Public School Land Survey, Abstract No. 701, Loving County, Texas. The well will cross the New Mexico/Texas border, continuing to produce in the Bone Spring formation (Sandbar (Bone Spring) [Texas Field No. 80544500, District Name: 08]). Production will be allocated to New Mexico and Texas prorated on the basis of surface acreage in the proration unit or in any other manner mutually acceptable to the Division and to the Railroad Commission of Texas. The first take point and the completed interval will meet the setback requirements set forth in the statewide rules for horizontal oil wells. The last take point within New Mexico will be on the state line between New Mexico and Texas. The well and lands are located approximately 14 miles southwest of Jal, New Mexico.

De Novo Case No. 22474, OCD Case No. 22294: Application of COG Operating LLC for Compulsory Pooling, Lea County, New Mexico. Applicant applies for an order pooling all uncommitted interests in the WC-025 G-09 S243532M; Wolfbone Pool (98098), underlying a standard 960.16-acre, more or less, horizontal spacing unit ("Unit") comprised of all of irregular Section 1 and the N/2 of Section 12, Township 25 South, Range 34 East, Lea County, New Mexico. Applicant seeks to dedicate the above-referenced horizontal spacing unit to the following proposed wells ("Wells"): the Green Eyeshade Fed Com #601H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NE/4 NE/4 (Lot 1) of Section 1; the Green Eyeshade Fed Com #602H well, and the Green Eyeshade Fed Com #702H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NW/4 NE/4 (Lot 2) of Section 1; the Green Eyeshade Fed Com #603H well, the Green Eyeshade Fed Com #703H well, to be drilled from a surface location in the NE/4 SW/4 (Unit K) of Section 12 to a bottom hole location in the NE/4 NW/4 (Lot 3) of Section 1; and the Green Eyeshade Fed Com Fed Com #704H well, to be drilled from a surface location in the NW/4 SW/4 (Unit L) of Section 12 to a bottom hole location in the NW/4 NW/4 (Lot 4) of Section 1. The completed interval for the proposed Green Eyeshade Fed Com #601H well will be within 330' of the quarter-quarter line separating the E/2 E/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NE/4 of Section 12; the completed interval for the proposed Green Eyeshade Fed Com #602H will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NW/4 of Section 12, and the completed interval for the proposed Green Eyeshade Fed Com #603H well will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 W/2 of Section 1 and the W/2 NW/4 from the E/2 NW/4 of Section 12 to allow inclusion of this acreage into a standard horizontal well spacing unit. Also to be considered will be the cost of drilling and completing the Wells and the allocation of the costs, the designation of Applicant as the operator of the Wells, and a 200% charge for the risk involved in drilling and completing the Wells. The Wells are located 13.6 miles West of Jal, New Mexico.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



Adrienne Sandoval, Chair

AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Monday, April 11, 2022 10:17 AM EDT
To: A. Blair Dunn Esq. (abdunn@ablairdunn-esq.com) <abdunn@ablairdunn-esq.com>; Adam Rankin <AGRankin@hollandhart.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marks,Allison <amarks@slo.state.nm.us>; Shaw, Alysha <ashaw@slo.state.nm.us>; Amy N. Carl (acarl@targaresources.com) <acarl@targaresources.com>; Repka, Angie <angie.repka@exxonmobil.com>; Anna M. Williamson (awilliamson@cilawnm.com) <awilliamson@cilawnm.com>; abiernoff@slo.state.nm.us <abiernoff@slo.state.nm.us>; Balch (balch@prrc.nmt.edu) <balch@prrc.nmt.edu>; Ryan, Beth (LDZX) <Beth.Ryan@conocophillips.com>; Blake D. 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Subject: April 14, 2022 OCC Final Agenda No. 04-22
Attachment(s): "OCC Final Agenda No. 04-22.pdf"

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Agenda No. 04-22

FINAL AGENDA

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
April 14, 2022
9:00 A.M.

During the COVID-19 Public Health Emergency, state buildings are closed to the public and meetings will be conducted remotely. The Oil Conservation Commission meeting will be held via Webex Meeting platform. The public meeting can be accessed by using the following link and/or meeting information:

OCC Meeting April 14, 2022
Event:

Type:	Unlisted Event
Event address for attendees:	https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e0eb638e57b08f2375219f33dcf6a42f2
Date and time:	Thursday, April 14, 2022 9:00 am Mountain Daylight Time (Denver, GMT-06:00)
Duration:	9 hours

Description:

Event number:	2495 201 9096
Event password:	mbGhimuJ352
Video Address:	24952019096@nmemnrd.webex.com You can also dial 173.243.2.68 and enter your meeting number.
Audio conference:	To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. United States Toll +1-408-418-9388 Show all global call-in numbers Access code: 2495 201 9096

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at (505) 470-5480 or through the New Mexico Relay Network at 1-800-659-1779 by **April 4, 2022**. Public documents can be provided in various accessible formats. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at *www.emnrd.nm.gov/ocd*.

The following items are for discussion and possible action:

1. Roll Call

2. Approval of the agenda

3. Approval of the March 10, 2022 Meeting Minutes

4. **Case No 22719**: Application of the Oil Conservation Division to Amend Rules 19.15.2 and 19.15.7 NMAC. The Oil Conservation Commission will review the request to grant a hearing on the rulemaking.

5. **Status conference and adoption of final order in Case No. 21629 De Novo Case No. 23745:**

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Application of Cimarex Energy Co. for Hearing De Novo of Case No. 21629, Eddy County, New Mexico (Evidentiary Hearing on Invalidation of Division Order)

6. **Update on Case No. 21872:** Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico

7. **Case No. 22473:** Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico. Applicant in the above-styled cause seeks an order from the Division approving the production allocation of minerals in the Bone Spring formation (WC-025 G-08 S263412K; Bone Spring [96672]) underlying a standard 280-acre, more or less, horizontal spacing and proration unit ("HSU") comprised of the E/2 E/2 of Section 29 and the NE/4 NE/4 and Lot 1 of irregular Section 32, Township 26 South, Range 35 East, NMPM, in Lea County, New Mexico, and Lot 1 of irregular Section 25, Block C24, in Loving County, Texas. The HSU will be dedicated to the El Campeon Fed Com 204H well, to be horizontally drilled from an approximate surface hole location 332' FSL and 620' FEL of Section 20, T26S-R35E, Lea County, New Mexico, to an approximate bottom hole location 10' FSL and 1912' FEL of Section 25, Block C24, Public School Land Survey, Abstract No. 701, Loving County, Texas. The well will cross the New Mexico/Texas border, continuing to produce in the Bone Spring formation (Sandbar (Bone Spring) [Texas Field No. 80544500, District Name: 08]). Production will be allocated to New Mexico and Texas prorated on the basis of surface acreage in the proration unit or in any other manner mutually acceptable to the Division and to the Railroad Commission of Texas. The first take point and the completed interval will meet the setback requirements set forth in the statewide rules for horizontal oil wells. The last take point within New Mexico will be on the state line between New Mexico and Texas. The well and lands are located approximately 14 miles southwest of Jal, New Mexico.

8. **De Novo Case No. 22474, OCD Case No. 22294:** Application of COG Operating LLC for Compulsory Pooling, Lea County, New Mexico. Applicant applies for an order pooling all uncommitted interests in the WC-025 G-09 S243532M; Wolfbone Pool (98098), underlying a standard 960.16-acre, more or less, horizontal spacing unit ("Unit") comprised of all of irregular Section 1 and the N/2 of Section 12, Township 25 South, Range 34 East, Lea County, New Mexico. Applicant seeks to dedicate the above-referenced horizontal spacing unit to the following proposed wells ("Wells"): the Green Eyeshade Fed Com #601H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NE/4 NE/4 (Lot 1) of Section 1; the Green Eyeshade Fed Com #602H well, and the Green Eyeshade Fed Com #702H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NW/4 NE/4 (Lot 2) of Section 1; the Green Eyeshade Fed Com #603H well, the Green Eyeshade Fed Com #703H well, to be drilled from a surface location in the NE/4 SW/4 (Unit K) of Section 12 to a bottom hole location in the NE/4 NW/4 (Lot 3) of Section 1; and the Green Eyeshade Fed Com Fed Com #704H well, to be drilled from a surface location in the NW/4 SW/4 (Unit L) of Section 12 to a bottom hole location in the NW/4 NW/4 (Lot 4) of Section 1. The completed interval for the proposed Green Eyeshade Fed Com #601H well will be within 330' of the quarter-quarter line separating the E/2 E/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NE/4 of Section 12; the completed interval for the proposed Green Eyeshade Fed Com #602H will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NW/4 of Section 12, and the completed interval for the proposed Green Eyeshade Fed Com #603H well will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 W/2 of Section 1 and the W/2 NW/4 from the E/2 NW/4 of Section 12 to allow inclusion of this acreage into a standard horizontal well spacing unit. Also to be considered will be the cost of drilling and completing the Wells and the allocation of the costs, the designation of Applicant as the operator of the Wells, and a 200% charge for the risk involved in drilling and completing the Wells. The Wells are located 13.6 miles West of Jal, New Mexico.

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9. Pending litigation

10. Other business

11. Next meeting – May 12, 2022

12. Adjournment

AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Friday, March 25, 2022 10:50 AM EDT
To: A. Blair Dunn Esq. (abdunn@ablairdunn-esq.com) <abdunn@ablairdunn-esq.com>; Adam Rankin <AGRankin@hollandhart.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marks,Allison <amarks@slo.state.nm.us>; Shaw, Alysha <ashaw@slo.state.nm.us>; Amy N. Carl (acarl@targaresources.com) <acarl@targaresources.com>; Repka, Angie <angie.repka@exxonmobil.com>; Anna M. Williamson (awilliamson@cilawnm.com) <awilliamson@cilawnm.com>; abiernoff@slo.state.nm.us <abiernoff@slo.state.nm.us>; Balch (balch@prrc.nmt.edu) <balch@prrc.nmt.edu>; Ryan, Beth (LDZX) <Beth.Ryan@conocophillips.com>; Blake D. 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Subject: April 14, 2022 OCC Notice of Hearing
Attachment(s): "April 14 2022 Notice of Hearing.pdf"

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NOTICE OF HEARING

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION
SANTA FE, NEW MEXICO
April 14, 2022
9:00 A.M.

During the COVID-19 Public Health Emergency, state buildings are closed to the public and meetings will be conducted remotely. The Oil Conservation Commission meeting will be held via Webex Meeting platform. The public meeting can be accessed by using the following link and/or meeting information:

OCC Meeting April 14, 2022
Event:

Type:	Unlisted Event
Event address for attendees:	https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e0eb638e57b08f2375219f33dcf6a42f2
Date and time:	Thursday, April 14, 2022 9:00 am Mountain Daylight Time (Denver, GMT-06:00)
Duration:	9 hours

Description:

Event number:	2495 201 9096
Event password:	mbGhimuJ352
Video Address:	24952019096@nmemnrd.webex.com You can also dial 173.243.2.68 and enter your meeting number.
Audio conference:	To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. United States Toll +1-408-418-9388 Show all global call-in numbers Access code: 2495 201 9096

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing, please contact Florene Davidson at (505) 470-5480 or through the New Mexico Relay Network at 1-800-659-1779 by **April 4, 2022**. Public documents can be provided in various accessible formats. A preliminary agenda will be available to the public no later than two weeks prior to the meeting. A final agenda will be available no later than 72 hours preceding the meeting. Members of the public may obtain copies of the agenda by contacting Ms. Davidson at the phone number indicated above. Also, the agenda will be posted on the Oil Conservation Division website at *www.emnrd.nm.gov/ocd*.

The following items are for discussion and possible action:

Status conference and adoption of final order in Case No. 21629 De Novo Case No. 21744: Application of Cimarex Energy Co. for Hearing De Novo of Case No. 21629, Eddy County, New Mexico (Evidentiary Hearing on Invalidation of Division Order)

Update on Case No. 21872: Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico

Case No. 22473: Application of Titus Oil & Gas Production, LLC for Approval of Production Allocation, Lea County, New Mexico. Applicant in the above-styled cause seeks an order from the Division approving the production allocation of minerals in the Bone Spring formation (WC-025 G-08 S263412K; Bone Spring [96672]) underlying a standard 280-acre, more or less, horizontal spacing and proration unit ("HSU")

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comprised of the E/2 E/2 of Section 29 and the NE/4 NE/4 and Lot 1 of irregular Section 32, Township 26 South, Range 35 East, NMPM, in Lea County, New Mexico, and Lot 1 of irregular Section 25, Block C24, in Loving County, Texas. The HSU will be dedicated to the El Campeon Fed Com 204H well, to be horizontally drilled from an approximate surface hole location 332' FSL and 620' FEL of Section 20, T26S-R35E, Lea County, New Mexico, to an approximate bottom hole location 10' FSL and 1912' FEL of Section 25, Block C24, Public School Land Survey, Abstract No. 701, Loving County, Texas. The well will cross the New Mexico/Texas border, continuing to produce in the Bone Spring formation (Sandbar (Bone Spring) [Texas Field No. 80544500, District Name: 08]). Production will be allocated to New Mexico and Texas prorated on the basis of surface acreage in the proration unit or in any other manner mutually acceptable to the Division and to the Railroad Commission of Texas. The first take point and the completed interval will meet the setback requirements set forth in the statewide rules for horizontal oil wells. The last take point within New Mexico will be on the state line between New Mexico and Texas. The well and lands are located approximately 14 miles southwest of Jal, New Mexico.

De Novo Case No. 22474, OCD Case No. 22294: Application of COG Operating LLC for Compulsory Pooling, Lea County, New Mexico. Applicant applies for an order pooling all uncommitted interests in the WC-025 G-09 S243532M; Wolfbone Pool (98098), underlying a standard 960.16-acre, more or less, horizontal spacing unit ("Unit") comprised of all of irregular Section 1 and the N/2 of Section 12, Township 25 South, Range 34 East, Lea County, New Mexico. Applicant seeks to dedicate the above-referenced horizontal spacing unit to the following proposed wells ("Wells"): the Green Eyeshade Fed Com #601H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NE/4 NE/4 (Lot 1) of Section 1; the Green Eyeshade Fed Com #602H well, and the Green Eyeshade Fed Com #702H well, to be drilled from a surface location in the NW/4 SE/4 (Unit J) of Section 12 to a bottom hole location in the NW/4 NE/4 (Lot 2) of Section 1; the Green Eyeshade Fed Com #603H well, the Green Eyeshade Fed Com #703H well, to be drilled from a surface location in the NE/4 SW/4 (Unit K) of Section 12 to a bottom hole location in the NE/4 NW/4 (Lot 3) of Section 1; and the Green Eyeshade Fed Com Fed Com #704H well, to be drilled from a surface location in the NW/4 SW/4 (Unit L) of Section 12 to a bottom hole location in the NW/4 NW/4 (Lot 4) of Section 1. The completed interval for the proposed Green Eyeshade Fed Com #601H well will be within 330' of the quarter-quarter line separating the E/2 E/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NE/4 of Section 12; the completed interval for the proposed Green Eyeshade Fed Com #602H will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 E/2 of Section 1 and the W/2 NE/4 from the E/2 NW/4 of Section 12, and the completed interval for the proposed Green Eyeshade Fed Com #603H well will be within 330' of the quarter-quarter line separating the E/2 W/2 from the W/2 W/2 of Section 1 and the W/2 NW/4 from the E/2 NW/4 of Section 12 to allow inclusion of this acreage into a standard horizontal well spacing unit. Also to be considered will be the cost of drilling and completing the Wells and the allocation of the costs, the designation of Applicant as the operator of the Wells, and a 200% charge for the risk involved in drilling and completing the Wells. The Wells are located 13.6 miles West of Jal, New Mexico.

Given under the Seal of the State of New Mexico Oil Conservation Commission at Santa Fe, New Mexico.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION



Adrienne Sandoval, Chair

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STRATEGIC PLANNING

Organizations with a good strategic plan are more successful. The plan provides a roadmap for leadership and staff. They work as a team to achieve consistent goals over several years. The *Strategic Planning* guide describes the preparations for planning, developing the plan, and implementation.

Why Have a Strategic Plan

1. **Roadmap** – The plan identifies the "destination" and guides the board of directors, committees and staff.
2. **Continuity/Sustainability** – Without a plan the organization is susceptible to mission drift and simply being reactionary.
3. **Prioritization** – Planning allows leaders to identify the important issues and programs; and to drop programs that are ineffective or irrelevant.
4. **Allocation of Resources** - Planning is the disciplined allocation of resources (time and money).
5. **Assignment and Timelines** – Good plans include performance measures and assignments indicating how and when projects will be done.
6. **Awareness** – The plan should be compelling to members and stakeholders.

Terminology of Planning

Understanding of and consistent use of terminology is important to guide discussions.

Mission – The purpose for existence; crisp sentence or two – easy to articulate.

Vision – Statement of aspiration; how the organization will affect the future of the organization, community or stakeholders (members.)

Values – Guiding principles of the leadership and staff.

Goals – The core competencies to which resources will be allocated. In setting goals, consider the acronym SMART - Specific, Measurable, Attainable, Relevant and Timely.

Strategies – Approaches and programs for achieving the mission and goals.

Tactics – Assignments, accountability and deadlines.

Performance Measures – Methods to measure progress.

Business Plan – An annual detailed program of work linked to the strategic plan.



Trends in Planning

- Set just 3 to 7 goals; allowing the organization to focus efforts on its core competencies.
- A mission statement that is visionary can replace the need for separate mission and vision statements.
- Promote the plan to members and prospects by converting it to a brochure or posting on the website.
- Report on the plan's progress by reviewing at board meetings and at least annually.

Span of the Plan

3- 5 Years

Most plans span three years. Planning annually tends to cause short-term thinking. Plans exceeding 5 years may be unrealistic in rapidly evolving environments.

Planning Retreat

With preparation, focus and the right set up a strategic plan can be developed in a day or two. Because discussions will be intense, it is best to do the plan over two consecutive days --- giving everyone a relaxing break after the first day.

The room should be set up in an open-U, with a flip chart at the front. Ensure that seating is comfortable, and food and amenities are nearby. Natural light is preferred to a room without windows.

Brand Statements

The mission, as well as vision and values, serve as a "promise" to the community. The statements help to distinguish the organization. While the vision

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and values are optional, the mission or purpose statement is required.

50,000 Foot Perspective

Encourage discussions to remain at the 50,000 foot level. There is tendency for discussions to drop to 25,000' (committee work) or lower, say 10,000' (staff work and tactics.) Leave the tactics to committees and staff. Stay out of the "weeds" at the planning retreat.

Facilitation

An experienced facilitator involves everybody in discussions, while focusing on completing the planning in the time allotted. There are *disadvantages* to having the staff or a board member facilitate. A plan's success may be linked to the right facilitator. Provide the facilitator with all the information they need to understand the organization.

Environmental Scan

Planning is not done in a vacuum; there are environmental influences. Directors should be qualified to recognize trends and community needs. Often the discussion is built around the acronym SWOT – Strengths, Weaknesses, Opportunities and Threats.

Surveys and focus groups may be conducted to gain valuable stakeholder input.

Strategy or Tactic

What's the Difference?

Strategies are innovative approaches to achieving the goals. They often identified as programs, issues, priorities, benefits, events and services.

Tactics are a lower level discussion – how will it occur, who will do it? Tactics are the responsibility of committees, staff and consultants. Tactics are usually set *after* strategic planning.

Precautions

Plans fail for many reasons:

- Too many people at the planning retreat; 15 to 20 are ideal for meaningful discussions.
- Too many goals – simply a list of what the board wants to see finished. Successful organizations focus on just 3 to 7 goals.
- Short term thinking; it's not a strategic discussion if leaders cannot think beyond their terms of office.
- An inexperienced facilitator or one with a personal agenda.
- No final report formatted as a strategic plan.
- Meetings over several months rather than completing the plan in one sitting.
- Distractions during the planning meeting.
- The wrong people at the planning table; it is a responsibility of the board of directors who should be visionary leaders.
- Failure to include performance measures and timelines.
- Leaders and staff ignore the plan and go back to doing things as before

Implementation *after* the Retreat

There will be a temptation to put aside the new plan and return to daily tasks. Focus on implementation and integration into the culture of the organization.

- Appoint a "Plan Champion" to monitor and report on progress.
- Align every committee under the goal areas.
- Add performance measures and deadlines.
- Promote the plan to members and stakeholders.
- Create a yearly program of work for committees aligned with the strategic plan.
- Promote the plan at meetings and on the website.
- Include the plan on the board agenda.
- Conduct an annual review of progress.
- Share with the staff to get their buy-in of the board's strategic direction.

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NM-EMNRD-22-0512-B-000383

Subject: Call re: NOV - Mewbourne Oil Company, OGRID 14744
Location: Microsoft Teams Meeting

Start: Tuesday, March 01, 2022 5:00 PM EST
End: Tuesday, March 01, 2022 6:00 PM EST
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Fuge, Dylan , EMNRD
Required Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Will Hutchins <whutchins@mewbourne.com>
Optional Attendees: Tim Harrington <tharrington@mewbourne.com>; TYL-LEGAL-CONFERENCE <TYLLegalConference@mewbourne.com>

Will – Please forward to whomever else at Mewbourne needs to invite. Dylan

---

Microsoft Teams meeting

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From: Cody Owens <cowens@mewbourne.com>
Sent: Tuesday, August 10, 2021 7:06 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: Carlsbad Brine Well - Mewbourne Operations
Attachment(s): "BRINE WELL CORRESPONDENCE.pdf"

Good Afternoon Adrienne,

I hope this email finds you doing well. I wanted to follow up as to our conversations from April as to the Brine Well and Mewbourne's oil and gas operations in the area. Attached is a proposal for your consideration.

Mewbourne enjoys the great relationship that we have with the OCD and look forward to working together on this. Should you have any questions, do not hesitate to reach out to me.

Best Regards,

Cody

Cody Owens
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August 10, 2021

Via: Email

Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, NM 87505
Attn: Director Adrienne Sandoval

Re: Brine Well Matter

Dear Director Sandoval,

Pursuant to our conversation on April 16th, 2021 and a follow up conversation on April 22nd, 2021, Mewbourne Oil Company voluntarily delayed the completions for the following wells due to the OCD's concern about the potential impact on the Carlsbad Brine Well remediation efforts, most notably a concern with induced seismicity and/or direct communication with the brine cavern from hydraulic fracturing.

- **Mighty Ducks 15/16 W0PM State Com #1H**, API 30-015-46808, Sec. 15/16 T22S-R27E, Eddy Co., NM
  - APD approved by OCD—3/9/2020. Spud 2/1/2021.
- **Mighty Ducks 15/16 W0IL State Com #2H**, API 30-015-46807, Sec. 15/16 T22S-R27E, Eddy Co., NM
  - APD approved by OCD—3/9/2020. Spud 2/26/2021.
- **Waterboy 27/26 W0DA Fee #1H**, API 30-015-47305, Sec. 27/26 T22S-R27E, Eddy Co., NM
  - APD approved by OCD—7/24/2020. Spud 3/25/2021.
- **City Slickers 28/29 W0AD Fee #1H**, API 30-015-48087, Sec. 28/29 T22S-R27E, Eddy Co., NM
  - APD approved by OCD—3/5/2021. Spud 4/11/2021.

From the previously referenced conversations, it was communicated that a third party study was being conducted, set to conclude within two weeks that would evaluate the OCD's concerns about the potential risk to the brine well's integrity from offset oil and gas activity. Subsequently, Mewbourne was to receive written correspondence from the OCD, addressing any concerns found from said study coupled with further guidance on the planned completion operations.

Mewbourne has not received the findings and respectfully submits the following proposal to allow for completion operations to begin ***November 1, 2021***:

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1) Mewbourne and the OCD will share pertinent data related to seismicity in T22S-R27E. Mewbourne has subscribed to Nanometrics, an award winning company providing monitoring solutions and equipment for studying man-made and natural seismicity. The service provides historical and real-time seismicity measurement data through an extensive public and private monitoring network. Mewbourne proposes to compare data obtained through this array with the measurements that have been collected at the Carlsbad Brine Well site during various completions that have occurred in close proximity to the site. This shared information should include, but not necessarily be limited to the following well completions:
    - Conoco Phillips CCap #6H, Sec. 16-T22S-R27E
    - Devon Grandi #2H , Sec. 22-T22S-R27E
    - Mewbourne Sundown 31/32 W0DA Fee #1H, Sec. 31/32-T22S-R27E
    - Mewbourne Sundown 31/32 W0EH Fee #2H, Sec. 31/32-T22S-R27E
    - Devon Boxer 401H, Sec. 32-T22S-R27E
    - Marathon Airport 10H, Sec. 36-T22S-R27E

2) If the mutual findings are conclusive that induced seismicity is not of significant concern, Mewbourne will move forward and complete the ***Waterboy 27/26 W0DA Fee #1H***, which is the Mewbourne well that is the furthest distance from the location of the Brine well. Mewbourne will monitor in real-time for any seismicity that may occur in the area related or unrelated to the completion and be prepared to implement seismicity protocols during the treatment process. Mewbourne also proposes that direct coordination exist between Mewbourne engineers and the appropriate Brine Well personnel tasked with monitoring the real-time sensors located at the site.

3) If no causes for concern arise, Mewbourne then proposes the same procedure for the completions of the ***City Slickers 28/29 W0AD Fee #1H*** and the padded ***Mighty Ducks 15/16 W0PM State Com #1H & Mighty Ducks 15/16 W0IL State Com #2H*** in that respective order.

Further completion delay could risk pipe integrity of the aforementioned wells, which could lead to loss of capital investment, but more importantly lead to safety concerns when the wells are eventually completed. Mewbourne is confident that we can find a path forward that will strike an acceptable balance between our wellbore concerns and both parties' mutual concerns surrounding the Brine Well with safety and science leading the way. Mewbourne looks forward to further discussion and our continued partnership with the OCD in developing oil and gas resources in southeast New Mexico.

Should you have any questions regarding the above, please email me at cowens@mewbourne.com or call me at (903) 561-2900.

Sincerely,

Cody Owens

Cody Owens
VP-Exploration

AMERICAN OVERSIGHT

From: Tom Kropatsch <tom.kropatsch@wyo.gov>
Sent: Tuesday, March 15, 2022 5:57 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Comments on Draft Guidance for Orphan Well Grants

Thank you for the opportunity to submit these comments. These comments relate to any draft grant guidance documents that may be issued by the Department of Interior (DOI).

There are three issues that I suggest should be clarified by the DOI related to requirements on states related to the orphan well grants in the infrastructure bill.

First, the bill clearly says that States may use the funding provided for any of the following purposes:

- To plug, remediate, and reclaim orphaned wells located on State-owned and private land.
- To identify and characterize undocumented orphaned wells on State and private land.
- To rank orphaned wells based on factors including
    - public health and safety
    - potential environmental harm
    - other land use priorities.
- To make information regarding the use of funds received under this subsection available on a public website
- To measure and track
    - Emissions of methane and other gases associated with orphaned wells
    - Contamination of ground water or surface water associated with orphaned wells
- To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.
- To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.
- Subject to subparagraph (B) to administer a program to carry out any activities described in clauses (i) through (viii).

The language that seems to be utilized in the draft guidance makes it uncertain that the States will have a choice in implementation of any of these purposes, but rather will be required to implement all of these actions. As stated above, the language of the bill is unambiguous, directing that the States may utilize the funding for any of the purposes listed. The guidance issued by the DOI should follow the language of the bill and unambiguously indicate that the States may elect to use the funding for any of the same purposes, but will not be required to implement all of the purposes.

Second, a statement in the draft guidance indicates that the States must negotiate access to state or privately owned surface for federal employees, so that the federal employees may witness any of the operations undertaken by the States utilizing this funding. The States likely do not have authority to negotiate and guarantee access to private lands for federal employees. In addition, federal employees witnessing operations conducted under a State program is likely redundant and an unnecessary use of funding and personnel resources. The States will likely have a program to witness work conducted as part of this program. So this requirement will result in federal personnel witnessing state personnel witnessing contractors completing the work. Witnessing the witnessers is not an efficient use of this funding or of limited personnel. This requirement should be removed from the guidance.

Finally, it was stated on a recent DOI and IOGCC membership call that the surface ownership of the lands would determine the type of orphan the well would be considered for utilization for funding. For example, if the surface was privately owned the well would be considered an private orphan well, even if the minerals were federal, making the well a federal well in all other aspects. This is unacceptable and should be clarified to match federal statutes and practices regarding which entity has regulatory authority over specific wells. If the DOI utilized the surface ownership to determine the well type (fed/fee/state/tribal) it would throw decades of regulatory processes upside down. In States with large split estate lands, many wells which were federally regulated for the life of the well would suddenly become the responsibility of State regulatory agencies to plug as orphan. The term “lands” has always been used to mean surface, mineral, or combination thereof. Proof of this is found in 30 USC § 1291 (4) which states in part “Federal Lands means any land, including mineral interests, owned by the United States…..” A well that has been under federal regulatory regime for the life of the well because it was drilled into and produced from federal minerals should remain a federal well under this program and DOI or associated federal agencies should be responsible for plugging these wells under the federal program in the infrastructure bill.

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I am happy to discuss any of these comments in further detail should you need additional information.

Thanks,

Tom Kropatsch
Oil and Gas Supervisor
Wyoming Oil and Gas Conservation Commission
2211 King Blvd
PO Box 2640
Casper, WY 82602
Office: (307) 234-7147
Cell: (307) 274-7487

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Q16 Is there anything else IOGCC should consider in developing a strategic plan?

Answered: 32 Skipped: 26

#	RESPONSES	DATE
1	Role as the US moves toward electrification	8/27/2021 2:30 PM
2	No	8/25/2021 2:17 PM
3	Can't think of anything else	8/25/2021 1:30 PM
4	Better projection into what's driving the idle wells in the idle well report	8/25/2021 10:11 AM
5	Continued funding of regulatory programs	8/25/2021 9:34 AM
6	setting priorities for conflicting mineral development	8/25/2021 8:58 AM
7	Climate change mitigation	8/24/2021 6:47 PM
8	Think broadly and be rooted solidly in situational awareness regarding key issues.	8/24/2021 4:24 PM
9	Public communication strategy and training	8/24/2021 4:20 PM
10	How to manage increasingly divergent views between states on energy issues	8/24/2021 3:59 PM
11	Hydrogen	8/24/2021 3:25 PM
12	Local, State and National public officials/elected officials education	8/24/2021 1:19 PM
13	Interstate coordination of water	8/24/2021 1:07 PM
14	Look at climate related issues linked to the O&G sector from a global perspective while still maintaining a good understanding of local and site-specific and address them appropriately.	8/24/2021 1:02 PM
15	Diversity and Inclusion	8/20/2021 6:29 PM
16	The relationship between energy independence and national security. Better communicating with the general public the benefits of the domestic production of fossil fuels.	8/11/2021 3:07 PM
17	Focus on being apolitical organization where possible. Avoidance of language or policies that appear to appease political pressures. Environmental = Left of center; Oil and Gas = Right of center. Divisive.	8/10/2021 3:59 PM
18	Other well types drilled using the technology of the oil and gas industry that will become more prevalent with political pressure against the oil and gas industry such as deep geothermal and energy storage wells.	8/10/2021 11:00 AM
19	No changes.	8/9/2021 11:42 AM
20	Reviewing the Charter to make certain the direction IOGCC plans to go is consistent with why IOGCC was formed.	8/9/2021 11:32 AM
21	IOGCC needs to make sure that its members understand that the jump from fossil fuels to renewables cannot happen until battery efficiency improves to twice its current level. Also the products that oil and gas produces goes beyond energy. Therefore the industry should focus the positives.	8/9/2021 10:44 AM
22	The mission of the IOGCC and how not to get distracted by side issues.	8/9/2021 10:15 AM
23	A stronger and more vocal voice on energy policy.	8/6/2021 4:49 PM
24	The organization must continue to uphold its traditional guiding principles, but also establish a broader, more holistic view of evolving with a society that has recently had to address the challenges of pandemic, diversity and inclusion, and political polarization.	8/4/2021 5:30 PM

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25	changing legal landscape for regulators, regulation of infrastructure that may be vulnerable to climate/weather events, trend for residential/comm development near production and issues related to interactions with the public	8/2/2021 1:16 PM
26	land loss	7/30/2021 8:10 PM
27	Continuity of sufficient funding to maintain current levels of support if production revenue declines.	7/28/2021 12:23 PM
28	Above all, the preservation of the original and current statutory mission statement in every respect! Marland was correct about the purpose of the IOGCC at its inception and that vision is still correct now.	7/27/2021 5:47 PM
29	PROMOTION OF THE INDUSTRY	7/27/2021 5:36 PM
30	Q 14 says it all. Do that, resist the pressure to become merely another political tool. Embrace the future! Our charter says to do that, not live in the past or do the ostrich thing.	7/27/2021 4:31 PM
31	unknown	7/27/2021 3:54 PM
32	Separation of the compact from industry needs to be better defined.	7/27/2021 3:46 PM

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NM-EMNRD-22-0512-B-000391

Q17 The IOGCC mission statement is: "The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety and the environment."Does this mission statement continue to represent our organization and efforts? Please explain.

Answered: 49 Skipped: 9

#	RESPONSES	DATE
1	Yes	9/2/2021 5:45 PM
2	I think so, although the number of industries consuming OG may shrink in the future, so targeting specific supply chains might be called for.	8/27/2021 2:30 PM
3	Yes	8/25/2021 2:17 PM
4	Yes	8/25/2021 1:30 PM
5	Yes, but there is a push to eliminate the “efficient recovery of domestic oil and gas” and replace with “eliminate recovery of domestic oil and gas”. Iogcc needs to address that directly in all work by sub committee s	8/25/2021 10:11 AM
6	Yes	8/25/2021 9:34 AM
7	In Saskatchewan's regulatory environment, emerging minerals is now being reflected in our strategic plans i.e. more focus on mineral development than just oil and gas.	8/25/2021 8:58 AM
8	I think it is fine but I would add CCUS and other initiatives to mitigate climate change	8/24/2021 6:47 PM
9	I definitely think it has represented the organization and its efforts. The question to me is given the response to the survey and the stated priorities of governments, will it continue to. I think in the near future it will be representative but beyond that will need to be adjusted.	8/24/2021 4:24 PM
10	Yes IOGCC members are Governors, their mission is well described above, and is more than regulation	8/24/2021 4:20 PM
11	Might be worth checking on the mission statements of each O&G state agencies, but I bet you'd get to something like the current IOGCC mission statement. Maybe you can soften the current statement by subbing "supports" rather than "champions"	8/24/2021 3:59 PM
12	No. It should reference that the oil and gas resources be sustainably developed.	8/24/2021 3:25 PM
13	Yes	8/24/2021 2:43 PM
14	Yes	8/24/2021 1:20 PM
15	yes from what I have witnessed	8/24/2021 1:19 PM
16	Yes. Its beauty is its simplicity.	8/24/2021 1:13 PM
17	Yes	8/24/2021 1:07 PM
18	Include in the Mission Statement, that IOGCC will strive to ensure that diverse viewpoints on climate related issues will also be heard based on sound engineering and scientific principles.	8/24/2021 1:02 PM
19	Yes; the IOGCC does excellent work to protect our resources and the public while also fostering methods to prevent waste of our domestic oil and gas.	8/23/2021 8:31 PM
20	Yes	8/20/2021 6:29 PM
21	Yes	8/19/2021 1:41 PM

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22	Still solid. No changes needed.	8/19/2021 1:05 PM
23	Yes, I believe it does. If I were to add anything, it would be to ensure the future of the industry by protecting states' rights and fighting back against measures that seek to "keep it in the ground."	8/11/2021 3:07 PM
24	Yes.	8/10/2021 3:59 PM
25	We need to add information to states and citizens	8/10/2021 2:51 PM
26	Yes	8/10/2021 11:43 AM
27	Yes. Oil and gas resources can continue to be recovered and used while still protecting health, safety and the environment.	8/10/2021 11:00 AM
28	Yes - while the political climate may be ever-changing, IOGCC has stayed consistent in their goals and missions.	8/10/2021 8:50 AM
29	Yes. I believe the IOGCC's mission statement represents the organization and efforts. Your continued support to assist the states is invaluable.	8/9/2021 4:33 PM
30	It might need a mention to indigenous and community involvement/education/training	8/9/2021 1:50 PM
31	Yes	8/9/2021 12:14 PM
32	Yes, I feel that the mission statement represents the IOGCC correctly.	8/9/2021 11:42 AM
33	It should but it may not be possible going forward.	8/9/2021 11:32 AM
34	yes	8/9/2021 10:44 AM
35	Yes	8/9/2021 10:30 AM
36	Yes	8/9/2021 10:15 AM
37	Add being an advocate for federal and state policies that supports these resources being critical for a healthy and prosperous world.	8/6/2021 4:49 PM
38	The mission seems to slant toward the economic value of oil and gas resources without an explanation of what "conservation" really means. It should say more about ensuring abundant and affordable supplies of energy resources to the American public (maybe including renewable resources) without harm to people or environment.	8/4/2021 5:30 PM
39	I think that the focus should be on improving regulation for the protection of health, safety and the environment. Whether or not a state considers itself a champion for conservation and efficient recovery of domestic oil and gas varies among member states and changes with different administrations. Fair, consistent and effective regulation remains valuable to the member states regardless of whether or not the current administration is promoting the industry.	8/2/2021 1:16 PM
40	Yes it does. The challenge is to implement policies that carry out the mission.	7/30/2021 8:10 PM
41	it doesnt include the collaboration across regulators, which its the most valuable aspect of iogcc for me.	7/28/2021 2:04 PM
42	Yes, but maybe consider adding, "...through a robust member exchange of best management practices." or something like this to reflect the knowledge sharing that is occurring and beneficial to all its members.	7/28/2021 12:23 PM
43	This mission statement is spot on, inclusive and to the point. In any political environment, it balances conservation and production goals in an apolitical way that preserves the rule of law. The primary purpose of our regulatory efforts is the protection of the environment by encouraging the responsible development of the nation's valuable oil and gas resources. Any other mission would jeopardize the energy security and standard of life of our nation. If this mission statement is watered down or politicized, the IOGCC will lose all viability and credibility and it's purpose as an organization will have been destroyed-- i.e. it's toast! Strong opinion to follow at a later time.	7/27/2021 5:47 PM
44	Yes.	7/27/2021 5:39 PM
45	It does mine. I question whether it represents the IOGCC's decided shift to WOKEism & the	7/27/2021 5:36 PM

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	shuttering of the upstream O&G industry.	
46	Yes	7/27/2021 4:53 PM
47	Not at all. Witness the 4 resolutions proposed by the Texas RRC hyper-partisan chair. Also the overwhelming vote in favor. Is there no way to steer the org through these cultists, and show some leadership without the vitriol and buzzwords? Facts matter, folks, and there were none in those resolutions. The text was extreme, hyperbolic, and filled with inaccuracies that could easily have been dispelled by anyone willing to think clearly. IOGCC should fulfill its mission and charter and avoid this slop, and take back its real role as a science-driven leader again. Oh- let's hope these folks don't institutionalize these fantasies in any new strategic plan or related official IOGCC documents. I'll bet they continue to think that covid-19 is still a hoax and a plot by the (fill in your favorite enemy-of-the-week). I'm not naive- I've had my shots and so has my family.	7/27/2021 4:31 PM
48	Yes	7/27/2021 4:24 PM
49	Yes	7/27/2021 3:54 PM

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NM-EMNRD-22-0512-B-000394

From: Adam Peltz <apeltz@edf.org>
Sent: Friday, August 27, 2021 2:07 PM EDT
To: Greg Hickey <ghickey@spe.org>; Victoria Jones <vjones@spe.org>; lschoeling73@gmail.com <lschoeling73@gmail.com>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Tony Zamora <tony@tonyzamora.com>; bob.pearson <bob.pearson@glynnresources.com>; amascarenhas@questortech.com <amascarenhas@questortech.com>; DanielP@ogci.com <DanielP@ogci.com>; daniel.palmer@climateinvestments.energy <daniel.palmer@climateinvestments.energy>; Jennifer Bocchieri <jbocchieri@commpartners.com>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: Director Sandoval able to join our methane webinar!

Good news everyone – per discussion, Adrienne Sandoval, Oil Conservation Division Director, New Mexico Energy, Minerals and Natural Resources Department, will be able to join our methane webinar on 9/8 as the regulator discussant! We'd discussed that after Daniel and Audrey's presentation, Adrienne would have a few minutes of informal remarks reacting to the presentations and speaking of the work NM is doing on methane emissions, which will morph organically into a chat between the panelists before opening for general audience Q&A.

I'm out of pocket next week but I have no doubt we'll be able to get Adrienne set up for her participation.

Thanks much and speak soon,

Adam Peltz
Senior Attorney, Energy

Environmental Defense Fund
257 Park Ave South, 17th Fl
New York, NY 10010
O 212 616 1212
M 917 903 3482
apeltz@edf.org

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IOGCC Special Meeting
Colorado Springs, CO
Draft Agenda

Sunday, August 15, 2021

Time	Event	Location
6:00 PM - 6:30 PM	**Reception**	**Remingtons**
6:30 PM - 8:00 PM	**Welcome/Dinner**	**Remingtons**

Monday, August 16, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**Grand Rivers Room**
8:30 AM - 9:45 AM	**IOGCC Business**	**Grand Rivers Room**

Introductions

Update of Official Representative Handbook (Draft)

Process for Committee Appointments/Directory Updates

9:45 AM - 10:00 AM	**Break**	
10:00 AM - 11:15 AM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Assessments

Other Administrative Items

11:15 AM - 12:00 PM	**Lunch**	**Grand Rivers Terrace**
12:15 PM - 2:15 PM	**Guided Tour by Bus**	**Garden of the Gods**
2:30 PM - 3:45 PM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Resolutions Process

Review of Progress on Key Issues Identified in Medora (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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3:45 PM - 4:00 PM	**Break**	
4:00 PM - 5:15 PM	**IOGCC Business**	**Grand Rivers Room**

Plan for Strategic Plan Update

Review and Discussion of Prior Goal Statements and 2021 Member Survey Results

Tuesday, August 17, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**Grand Rivers Room**
8:30 AM - 10:00 AM	**IOGCC Business**	**Grand Rivers Room**

Orphan Well Funding Legislation

Other Federal Updates (Legislation, Regulation, Memoranda of Understanding)

10:00 AM – 10:15 AM	**Break**	
10:15 AM - 11:45 PM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs
- Energy Resources, Research and Technology—Adam Peltz, Vice-Chair
- Environment and Safety—Leslie Savage, Chair and Robyn Strickland, Vice-Chair
- Legal and Regulatory Affairs—Kimberly Wurtz, Vice-Chair
- Public, Coastal, and Tribal Lands—Virginia Hullinger, Vice-Chair
- Public Outreach—Katie Haarsager, Vice-Chair

Preparations for Annual Conference

11:45 AM - 12:00 PM	**Wrap Up and Adjourn**

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Drafting an IOGCC Resolution and Action Plan

Resolutions are typically debated at the Annual Business Meeting and Annual Conference. The IOGCC bylaws specify the resolutions process, and correspondence is sent to all governors and official and associate official representatives about two months prior to the Annual Business Meeting and Annual Conference calling for proposed resolutions and noting the deadline for filing proposed resolutions, which is 30 days prior to the meeting.

Resolutions should be as brief as possible, while fully explaining the issue to someone who may not be knowledgeable in the subject area—such as a state legislator or member of Congress. They should include Whereas clauses, which state specific facts of the issue involved, and close with a Therefore Be It Resolved clause, which is the conclusion of the IOGCC based on the facts stated.

A sample resolution and action plan are attached. Note that IOGCC staff will insert the number of the resolution.

The action plan, which must accompany the resolution unless the action to be taken is clear on the face of the resolution, sets forth the steps to be followed to implement the resolution. As you consider why the IOGCC should pass a resolution on your issue, also consider what the IOGCC can do to influence the subject matter of the resolution. Issues to consider in drafting the action plan include to whom the resolution should be communicated, how the resolution should it be communicated and by whom, what other investigation or research is needed, and what other organizations might be joined in the effort.

You should consider communicating with some of the members of the Resolutions Committee prior to their meeting to discuss the resolution and address questions. You should plan to attend the meeting(s) of the Resolutions Committee to be available for questions.

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Sample Resolution

RESOLUTION 20.071

Urging the United States Congress to Adopt Legislation to Stimulate the National Economy and Promote Energy Independence by Plugging Orphan Wells

WHEREAS, the COVID-19 global pandemic and global oversupply triggered a historic downturn in crude oil prices and fuel consumption, forcing North American oil and gas producers to slash production and cut the workforce; and

WHEREAS, the maintenance of a trained and experienced oil and gas workforce is fundamental to maintaining energy independence and security for the United States; and

WHEREAS, Rystad Energy Research Services estimates more than a million oil worker jobs are at risk to be cut in 2020 due to low project volumes brought by the COVID-19 pandemic and the ongoing global oil price dispute; and

WHEREAS, at the Annual Business Meeting of the Interstate Oil and Gas Compact Commission (IOGCC) held in July 2020, IOGCC discussed the need to maintain a stable workforce of oilfield workers vulnerable to layoff during the COVID-19 pandemic; and

WHEREAS, IOGCC reported in its 2019 study, "Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies," that 30 states reported a total of 56,600 documented orphan wells and an average orphan well plugging expenditure of $18,940 in 2018; and

WHEREAS, the government of Canada adopted a C$1.7 billion economic stimulus effort to clean up its orphaned wells in Alberta, Saskatchewan and British Columbia; the funding is expected to retain and create approximately 10,000 well-paying jobs in the energy sector; and

WHEREAS, orphan wells and well sites may pose a risk to the environment, public health, and safety if not properly plugged and restored; and

WHEREAS, federal economic stimulus funds to the states to plug orphan wells in accordance with state laws, along with research funding to assist the states in documenting and assessing orphan wells, can provide jobs to sustain the oil and gas workforce and their local communities and address potential environmental harms; and

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WHEREAS, IOGCC's mission to promote the conservation and efficient recovery of domestic oil and natural gas resources, while protecting health, safety, and the environment, correlates with the purposes of this federal stimulus request.

NOW, THEREFORE, BE IT RESOLVED THAT, the Interstate Oil and Gas Compact Commission does hereby support and endorse legislative actions by Congress to provide at least five years of federal funding for states to plug orphan wells and restore orphan well sites in accordance with state laws plus funding for research to assist states in documenting and assessing currently undocumented orphan wells; and further requests that the members of the congressional delegation of each IOGCC state take action as necessary to achieve this objective.

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RESOLUTION 20.071
ACTION PLAN

Urging the United States Congress to Adopt Legislation to Stimulate the National Economy and Promote Energy Independence by Plugging Orphan Wells

1. Send copies of the resolution to all IOGCC Governors and Official Representatives, including all directors of member state oil and gas divisions.

2. Send copies of the resolution to the President, Vice President and key administrative officials urging them to work with the IOGCC to promote energy independence, public health, and safety through adoption of the proposed legislation.

3. Send copies of the resolution to Congressional leaders and testify before Congressional committees, if invited and as appropriate.

4. Send copies to state and national oil-and-gas industry and groundwater-protection associations.

5. Monitor status of legislative process, advocate in Congress for provisions, and keep states informed and involved.

AMERICAN OVERSIGHT

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Friday, May 06, 2022 8:05 PM EDT
To: Blake.Johnson@apachecorp.com <Blake.Johnson@apachecorp.com>
CC: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp
Attachment(s): "05-06-22 IPRA OCD Response 3-Day Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.pdf"

May 6, 2022

To: Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,
Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

Please see attached OCD IPRA Correspondence entitled: *05-06-2022 IPRA OCD 3-Day Response Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.*,
and advise at your earliest convienance.

Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 3, 2022 8:38 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: [EXTERNAL] Request to inspect public records

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Good morning Ms. Squires.

Please see the attached request to inspect the public records.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

AMERICAN OVERSIGHT

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval Director
Oil Conservation Division

May 6, 2022

To:
Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

RE: "I would like to inspect and copy the following records":

1.) *" Has the New Mexico Oil Conservation Division (OCD) ever, at any point in time, issued or sent, or entered into, any Notices of Violation , warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below , or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of, with respect to Lease No. E0-2126-0006 in Eddy County, New Mexico? If yes, please provide copies of all such Notices of Violation, Warning Letters, compliance orders, or settlement agreements. AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC.*

2.) *Has the New Mexico Oil Conservation Division (OCD) ever, within the past five years, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of? If yes, please provide copies of all such Notices of Violation, warning letters, compliance orders, or settlement agreements." AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC."*

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Oil Conservation Division dose not regulate lease information and have no responsive records related to this portion of the request.

Due to the broad and burdensome nature of request No. one (1) and No. two (2), OCD expects that it will take an additional 4 weeks (28 days) to reply, ending; 05-31-2022.

If the requester can narrow the request to specific information citing; API, Facility, Incident I.D. of concern, and/or origin date of the Lease in question to Apache, OCD may be able to respond sooner.

Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

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From: Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>
Sent: Wednesday, January 05, 2022 1:01 PM EST
To: A. Blair Dunn Esq. (abdunn@ablairdunn-esq.com) <abdunn@ablairdunn-esq.com>; Adam Rankin <AGRankin@hollandhart.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marks,Allison <amarks@slo.state.nm.us>; Shaw, Alysha <ashaw@slo.state.nm.us>; Amy N. Carl (acarl@targaresources.com) <acarl@targaresources.com>; Repka, Angie <angie.repka@exxonmobil.com>; Anna M. Williamson (awilliamson@cilawnm.com) <awilliamson@cilawnm.com>; abiernoff@slo.state.nm.us <abiernoff@slo.state.nm.us>; Balch (balch@prrc.nmt.edu) <balch@prrc.nmt.edu>; Ryan, Beth (LDZX) <Beth.Ryan@conocophillips.com>; (ballen@sesi-nm.com) <ballen@sesi-nm.com>; Brandon Hajny <BHajny@cilawnm.com>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Brian Hall (bhall@marathonoil.com) <bhall@marathonoil.com>; Bruce Baizel (bruce@earthworks.org) <bruce@earthworks.org>; Bryce Smith (bsmith@modrall.com) <bsmith@modrall.com>; chart@catenares.com <chart@catenares.com>; Candace Callahan <CCallahan@bwenergylaw.com>; Marathon Oil Corporation (cfrice@marathonoil.com) <cfrice@marathonoil.com>; Chelsey Green (Chelsey.green@dvn.com) <Chelsey.green@dvn.com>; Chris Killion (ckillion@modrall.com) <ckillion@modrall.com>; Christian Combs <ccombs@taprk.com>; D Hawthorne (dhawthorne@ntglobal.com) <dhawthorne@ntglobal.com>; D. 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Sheila Mallory (smallory@blm.gov) <smallory@blm.gov>; Shelly Albrecht (shelly@avantnr.com) <shelly@avantnr.com>; (stan.phillips@apachecorp.com) <stan.phillips@apachecorp.com>; Richard, StephanieGarcia <sgarciarichard@slo.state.nm.us>; Stephen Robertson PBPA <Stephen@PBPA.info>; spollock@forl.com <spollock@forl.com>; Sunalei Stewart (sstewart@slo.state.nm.us) <sstewart@slo.state.nm.us>; Tarin Nix (tnix@slo.state.nm.us) <tnix@slo.state.nm.us>; tpacheco@montand.com <tpacheco@montand.com>; Tessa Wuertz (Tessa.Wuertz@bridgerphotonics.com) <Tessa.Wuertz@bridgerphotonics.com>; Thomas Engler (Thomas.engler@nmt.edu) <Thomas.engler@nmt.edu>; THOMAS MCKINNEY <stormycce@gmail.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Tiffany Sarantinos (tiffany@avantnr.com) <tiffany@avantnr.com>; Tom Singer (singer@westernlaw.org) <singer@westernlaw.org>; Trent Colan (Trent.Colan@rlicorp.com) <Trent.Colan@rlicorp.com>; Tyra Feil (Tyra.Feil@duganproduction.com) <Tyra.Feil@duganproduction.com>; V. Ware (vware@matadorresources.com) <vware@matadorresources.com>; Valerie Gremillion (valerie.gremillion@gmail.com) <valerie.gremillion@gmail.com>; wjones@titusoil.com <wjones@titusoil.com>; William E. Zimsky (bill@abadieschill.com) <bill@abadieschill.com>; Perez, Yolanda <Yolanda_Perez@oxy.com>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: EMNRD Rapid Hire Event
Attachment(s): "Santa Fe Flyer _ Rapid Hire_Jan 2022.pdf"

Happy New Year-

On Wednesday, January 12, 2022 from 2-7pm, the Energy, Minerals and Natural Resources Department will be participating in a rapid hire event through the State Personnel Department. Positions in each EMNRD Division will be available, including the OCD, and interested candidates should bring resumes and be prepared to interview. Job opportunities exist around the state—remote interviews will be available and conducted at local Workforce Solutions locations.

The following OCD positions will be available at the rapid hire event:

5456	Compliance Officer A -Admin Comp
23255	Environmental Specialist A-Projects
10111543	Petroleum Specialist A-Permitting
5459	Environmental Specialist A-Permitting
26997	Petroleum Specialist A-UIC
10109607	Compliance Officer A-Raton
30214	Environmental Specialist B-Incidents
5478	Compliance Officer A-Aztec
5477	AOI - Admin Bureau Chief
5454	Petroleum Specialist A- Data Analyst
5485	Petroleum Specialist A- Permitting
5480	Compliance Officer O - Aztec
5427	Environmental Specialist A-Permitting
10108819	Attorney IV (OCD)

The OCD also has 3 positions posted which will go through the normal hiring process. They can be found on the SPO website at the link below by searching for the following Job ID numbers:
https://careers.share.state.nm.us/psc/hprdcg/EMPLOYEE/HRMS/c/HRS_HRAM_FL.HRS_CG_SEARCH_FL.GBL?Page=HRS_APP_SCHJOB_FL&FOCUS=Applicant

5449	Environmental Bureau Chief AOII – Job ID 121153
59902	Compliance Officer Supv – Administrative Compliance – Job ID 121157
5448	Petroleum Specialist Supervisor-Permitting – Job ID 121150

Additional details about the event can be found in the attached flyer.

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New Mexico State Government
Rapid Hire Event

SANTA FE

COVID SAFE PRACTICES: WE ARE TAKING THE UTMOST CAUTION TO PROTECT OUR COMMUNITY FROM COVID-19 AND ABIDING BY ALL LOCAL, STATE AND FEDERAL LAWS.



JANUARY 2022
6, 7, 11 AND 12
2-7 PM

WILLIE ORTIZ BUILDING
2550 CERRILLOS RD
SANTA FE, NM 87505

EVENT SCHEDULE

- JAN 6: FINANCE POSITIONS
- JAN 7: HUMAN RESOURCES POSITIONS
- JAN 11: OPEN POSITIONS WITH DEPARTMENTS OF HEALTH AND HUMAN SERVICES
- JAN 12: OPEN POSITIONS WITH DEPARTMENTS OF ENERGY, MINERALS AND NATURAL RESOURCES AND ENVIRONMENT

Virtual interviews will be made available from the New Mexico Workforce Connection in Albuquerque located at 501 Mountain Rd.

ABOUT THE RAPID HIRE EVENT

The State of New Mexico is looking to quickly hire for entry level to upper management positions! A multiple day Rapid Hire event is scheduled for January 6th through the 12th in Santa Fe! During the Rapid Hire event, qualified applicants will be interviewed by the hiring state agency on-site and find out about a job offer **same day or shortly after.**

WHAT TO BRING

- Multiple copies of your updated resume
- Three professional references
- Proof of right to work in the U.S.
- Dress for success
- **Suggested* - Copy of unofficial transcripts for highest level of education achieved

For more information and/or to request accommodations, contact the New Mexico Workforce Connection, Santa Fe office at **505-355-1758**

NM-EMNRD-22-0512-B-000107

Subject: Endangered Plants Outreach
Location: Microsoft Teams Meeting

Start: Thursday, June 24, 2021 2:30 PM EDT
End: Thursday, June 24, 2021 3:15 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Jim Winchester <jimwinchester@ipanm.org>; John Smitherman <JRS@nmoga.org>; McCarthy, Laura, EMNRD <Laura.McCarthy@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Bada, Cheryl, EMNRD <cheryl.bada@state.nm.us>
Optional Attendees: Perez, Yolanda <Yolanda_Perez@oxy.com>; Sinard, Karen <Karen_Sinard@oxy.com>; Rapp, Veronica G <Veronica_Rapp@oxy.com>

Please feel free to include anyone in your organization who is appropriate

---

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 505-312-4308,,656616704# United States, Albuquerque
Phone Conference ID: 656 616 704#
Find a local number | Reset PIN

Learn More | Meeting options

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RECIPIENT LIST
E.W. MARLAND AWARD

The Interstate Oil and Gas Compact Commission established the E.W. Marland Award in 1994 to recognize an outstanding state regulator. This prestigious award is named for the 10th governor of Oklahoma, who led in chartering the compact in 1935.

Paul H. Roberts (NE)	1994
Mack Wallace (TX)	1995
William J. Murray, Jr. (TX)	1996
Donald B. Basko (WY)	1997
William J. LeMay (NM)	1998
Wesley D. Norton (ND)	1999
William J. Wynne (AR)	2000
William F. Guerard, Jr. (CA)	2001
Donald F. Oltz (AL)	2002
Fred V. Steece (SD)	2003
Lowell P. Braxton (UT)	2005
Donald J. Likwartz (WY)	2008
Lawrence E. Bengal (AR)	2009
Victor Carrillo (TX)	2010
Berry “Nick” Tew, Jr. (AL)	2013
William H. Sydow (NE)	2014
John Baza (UT)	2015
Lynn Helms (ND)	2016
Cathy Foerster (AK)	2018
Hal Fitch (MI)	2019

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AGENDA
IOGCC ANNUAL CONFERENCE
Inn at Loretto
Santa Fe, New Mexico
Sunday, November 7 to Tuesday, November 9, 2021

Sunday, November 7th

11:00am-5:00pm **Registration—Living Room**

11:00am-12:00pm **Finance Committee** *(Member Brunch)*—**Rio Chama Prime Steakhouse**

12:30pm-2:30pm **Council of Regulatory Officials—Zuni Ballroom**
Opening Comments
Dave Hardie, Council Chair and Alberta Assoc. Official Representative
Welcoming Remarks
Adrienne Sandoval, New Mexico Official Representative
Status of Updated IOGCC Idle/Orphan Well Report
Hal Fitch, IOGCC Consultant
Roundtable Discussion

3:00pm-5:00pm **Council of Oil and Gas Attorneys—Chaco Ballroom**
Opening Comments
Ryan Hoffman, Council Chair and Kansas Assoc. Official Representative
Roundtable Discussion

3:00pm-5:30pm **Strategic Planning Session** *(Official Representatives Only)*—**Zuni Ballroom**

5:30pm-6:30pm **Opening Reception at Inn at Loretto—Tesuque Ballroom**

Monday, November 8th

7:30am—5:00pm **Registration—Living Room**

7:30am—8:30am **Breakfast—Chaco Ballroom**

7:30am—9:00am **Strategic Planning Session** *(Official Representatives Only)*—**Tesuque Ballroom**

8:30am—9:30am **Special Features—Zuni Ballroom**
Closed Loop Gas Capture
Patrick Padilla, Sara Mitchell, and Ryan Yarger, EOG Resources
Early Phase Execution for Carbon Sequestration Projects Today
Lloyd Hetrick and Ed Steele, Tetra Tech

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9:30am-12:00pm **General Session—Zuni Ballroom**

Wayne Christian, Chairman, Railroad Commission of Texas, IOGCC Vice-Chair

Todd Leahy, Deputy Secretary of Energy, Minerals and Natural Resources, New Mexico

Kenneth Wagner, Secretary of Energy and Environment, Oklahoma, IOGCC 2nd Vice-Chair

The Honorable J. Kevin Stitt, Governor of Oklahoma, IOGCC Chair

Micah Chambers, Legislative Director, Senator Kevin Cramer | North Dakota

David Gray, Acting Regional Administrator, Region 6, Environmental Protection Agency

Steve Tryon, Director, Office of Environmental Policy and Compliance, Dept of Interior

Chair's Stewardship Awards

12:00pm-1:30pm **Lunch** *(On Your Own)*

12:00pm-1:15pm **Steering Committee** *(Member Lunch)*—**Penthouse Suite**

1:30pm-2:30pm **Resolutions Committee—Acoma Room**

1:30pm-2:30pm **Energy Resources, Research and Technology Committee—Zuni Ballroom**

Opening Remarks
Lanny Schoeling, Chair
Adam Peltz, Vice-Chair

Update on the ERRT Portal
Kaitlyn Smith, IOGCC Technical Coordinator

Summary of 2020-2021 CCUS Webinars and Workshops for Regulators
Dr. Lanny Schoeling, VP Oilfield Innovation, NeoTek Energy

Remediation of Orphan Well Sites: Success is in the Science
Dr. Kerry Sublette, Professor of Chemical Engineering, University of Tulsa

2:45pm-3:45pm **Environment and Safety Committee—Zuni Ballroom**

Opening Remarks
Leslie Savage, Chair
Robyn Strickland, Vice-Chair

An EPA Regulatory Update—The State of Play
Dr. Taimur Shaikh, Senior Policy Advisor—Energy, EPA Region 6

A *Preview of the Updated IOGCC TENORM Guidance Document*
Scott Winters, IOGCC Consultant

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4:00pm-5:00pm **Legal and Regulatory Affairs Committee—Zuni Ballroom**

Opening Remarks
Reice Haase, Chair
Kimberly Wurtz, Vice-Chair

Update on Litigation over Federal Executive Orders
Brent Mead, Montana Assistant Solicitor General

Natural Gas Production and Grid Reliability
Brian Kroshus, North Dakota Public Service Commissioner

Recent Developments in State Primacy
Kimberly Wurtz, Attorney, Wurtz & Associates

5:30pm-7:00pm **Networking Reception—Luminaria Restaurant**

Tuesday, November 9th

7:30am-11:00am **Registration—Living Room**

7:30am-8:30am **Breakfast—Chaco Ballroom**

8:30am-9:30am **Public, Coastal and Tribal Lands Committee—Tesuque Ballroom**

Opening Remarks
Sara Longan, Chair
Virginia Hullinger, Vice-Chair

Oil and Gas Update from the New Mexico State Land Office
Greg Bloom, Assistant Commissioner for Mineral Resources

Update from the BLM New Mexico State Office
Steve Wells, Associate State Director, BLM

Public Lands and Communities
Sara Longan, Deputy Commissioner, Alaska Dept of Natural Resources

9:45am-10:45am **Public Outreach Committee—Tesuque Ballroom**

Opening Remarks
Travis McCormick, Chair
Katie Haarsager, Vice-Chair

The February 2021 ERCOT Grid Failure and Lessons
Gregg Goodnight, Retired Engineer, TRCS and CO2 Coalition

Advancements in CCUS
Erik Oswald, Vice President, ExxonMobil Low Carbon Solutions

11:00am-12:30pm **Business Session—Zuni Ballroom**

12:30pm **Adjourn**

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TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 29 RELEASES

19.15.29.1 ISSUING AGENCY: Oil Conservation Commission.
[19.15.29.1 NMAC - Rp, 19.15.29.1 NMAC, 8/14/2018]

19.15.29.2 SCOPE: 19.15.29 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.29.2 NMAC - Rp, 19.15.29.2 NMAC, 8/14/2018]

19.15.29.3 STATUTORY AUTHORITY: 19.15.29 NMAC is adopted pursuant to the Oil and Gas Act, Section 70-2-11 NMSA 1978 (1977) and Section 70-2-12 NMSA 1978 (2004).
[19.15.29.3 NMAC - Rp, 19.15.29.3 NMAC, 8/14/2018]

19.15.29.4 DURATION: Permanent.
[19.15.29.4 NMAC - Rp, 19.15.29.4 NMAC, 8/14/2018]

19.15.29.5 EFFECTIVE DATE: August 14, 2018, unless a later date is cited at the end of a section.
[19.15.29.5 NMAC - Rp, 19.15.29.5 NMAC, 8/14/2018]

19.15.29.6 OBJECTIVE: To prohibit releases and require persons who operate or control the release or the location of the release to report the unauthorized release of oil, gases, produced water, condensate or oil field waste including regulated NORM or other oil field related chemicals, contaminants or mixtures of those chemicals or contaminants that occur during drilling, producing, storing, disposing, injecting, transporting, servicing or processing and to establish procedures for reporting, site assessment, remediation, closure, variance and enforcement.
[19.15.29.6 NMAC - Rp, 19.15.29.6 NMAC, 8/14/2018; A, 8/24/2021]

19.15.29.7 DEFINITIONS:

A. **"Major release"** means:

(1) an unauthorized release of a volume, excluding gases, of 25 barrels or more;

(2) an unauthorized release of a volume that:

(a) results in a fire or is the result of a fire;

(b) may with reasonable probability reach a watercourse;

(c) may with reasonable probability endanger public health; or

(d) substantially damages property or the environment;

(3) an unauthorized release of gases exceeding 500 MCF; or

(4) a release of a volume that may with reasonable probability be detrimental to fresh water.

B. **"Minor release"** means an unauthorized release, which is not a major release and is a volume greater than five barrels but less than 25 barrels; or for gases, greater than 50 MCF but less than 500 MCF.

C. **"Responsible party"** means the operator, as defined in 19.15.2 NMAC. Notwithstanding the foregoing, the division, in its sole discretion, may also consider a person causing the release, or controlling the location of the release as the responsible party.

D. **"Wellstream"** means the gas, oil, water, suspended constituents, or any combination thereof, which comes from the wellbore.
[19.15.29.7 NMAC - Rp, 19.15.29.7 NMAC, 8/14/2018]

19.15.29.8 RELEASES:

A. **Prohibition.** Except as provided in 19.15.27 NMAC or 19.15.28 NMAC, major releases and minor releases are prohibited.

B. **Requirements.** For all releases regardless of volume, the responsible party shall comply with 19.15.29.8 NMAC and shall remediate the release. For major and minor releases, the responsible party shall also comply with 19.15.29.9, 19.15.29.10, 19.15.29.11, 19.15.29.12 and 19.15.29.13 NMAC.

C. **Initial response.** The responsible party must take the following immediate actions unless the actions could create a safety hazard that would result in injury.

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NM-EMNRD-22-0512-B-000413

(1) Source elimination and site security. The responsible party must take appropriate measures to stop the source of the release and limit access to the site as necessary to protect human health and the environment.

(2) Containment. Once the site is secure, the responsible party must contain the materials released by construction of berms or dikes, the use of absorbent pads or other containment actions to limit the area affected by the release and prevent potential fresh water contaminants from migrating to watercourses or areas that could pose a threat to public health and environment. The responsible party must monitor the containment to ensure that it is effectively containing the material and not being degraded by weather or onsite activity.

(3) Site stabilization. After containment, the responsible party must recover any free liquids and recoverable materials that can be physically removed from the surface within the containment area. The responsible party must deliver material removed from the site to a division-approved facility.

(4) Remediation. The responsible party may commence remediation immediately.

[19.15.29.8 NMAC - Rp, 19.15.29.8 NMAC, 8/14/2018; A, 8/24/2021]

19.15.29.9 RELEASE NOTIFICATION:

A. The responsible party must notify the division on form C-141 of a major or minor release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of oil, gases, produced water, condensate or oil field waste including regulated NORM, or other oil field related chemicals, contaminants or mixture of the chemicals or contaminants, in accordance with the requirements of 19.15.29 NMAC.

B. If state, federal or tribal lands are involved, the responsible party must send a copy of the form C-141 to the appropriate land managing agency including the state land office, the BLM or tribal authority, as applicable.

[19.15.29.9 NMAC - Rp, 19.15.29.9 NMAC, 8/14/2018]

19.15.29.10 RELEASE NOTIFICATION REPORTING REQUIREMENTS: The responsible party must notify the division of releases in 19.15.29.9 NMAC as follows.

A. Reporting a major release.

(1) The responsible party must notify the division's environmental bureau chief and the appropriate division district office verbally or by e-mail within 24 hours of discovery of the release. The notification must provide the information required on form C-141.

(2) The responsible party must also notify the appropriate division district office in writing within 15 days of discovering the release by completing and filing form C-141. The written notification must verify the prior verbal or e-mail notification and include additions or corrections to the information contained in the prior verbal or e-mail notification.

B. Reporting a minor release. The responsible party must notify the appropriate division district office in writing within 15 days of discovery of the release by completing and filing form C-141.

[19.15.29.10 NMAC - Rp, 19.15.29.10 NMAC, 8/14/2018]

19.15.29.11 SITE ASSESSMENT/CHARACTERIZATION: After the responsible party has removed all free liquids and recoverable materials, the responsible party must assess soils both vertically and horizontally for potential environmental impacts from any major or minor release containing liquids.

A. Characterization requirements. The responsible party must submit information characterizing the release to the appropriate division district office within 90 days of discovery of the release or characterize the release by submitting a final closure report within 90 days of discovery of the release in accordance with Subsection E of 19.15.29.12 NMAC. The responsible party may seek an extension of time to submit characterization information for good cause as determined by the division. The responsible party must submit the following information to the division.

(1) Site map. The responsible party must provide a scaled diagram that shows the potentially impacted area, significant surface features including roads and site infrastructure, location of borings, sample points, monitoring wells and subsurface features such as known pipelines to the extent known at the time of submittal including the source of information regarding subsurface features.

(2) Depth to ground water. The responsible party must determine the depth to ground water where the release occurred. If the exact depth to ground water is unknown, the responsible party must provide a reasonable determination of probable ground water depth using data generated by numeric models, cathodic well lithology, water well data, published information or other tools as approved by the appropriate division district

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office. If the responsible party uses water well data, the responsible party must provide all pertinent well information.

(3) Wellhead protection area. The responsible party must determine the horizontal distance from all known water sources within a half mile of the release including private and domestic water sources. Water sources are wells, springs or other sources of fresh water extraction. Private and domestic water sources are those water sources used by less than five households for domestic or stock purposes.

(4) Distance to nearest significant watercourse. The responsible party must determine the horizontal distance to the nearest significant watercourse as defined in Subsection P of 19.15.17.7 NMAC within a half mile of any horizontal boundary of the release.

(5) Soil/waste characteristics. The responsible party must determine the lateral and vertical extents of soil contamination, as follows.

(a) If the release occurred within a lined containment area, the responsible party must demonstrate liner integrity after affected material is removed and the affected area of the liner is exposed and provide:

(i) certification on form C-141 that the responsible party has visually inspected the liner where the release occurred and the liner remains intact and had the ability to contain the leak in question; and

(ii) at least two business days' notice to the appropriate division district office before conducting the liner inspection.

(b) If the responsible party is unable to demonstrate liner integrity or the release occurred outside of a lined containment area, the responsible party must delineate the release horizontally and vertically using Table I of 19.15.29.12 NMAC constituents or as required by Subparagraph (e) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC based on the type of release. The responsible party shall use one or more of the following soil sampling methods for characterization:

(i) NRCS Field Guide;

(ii) EPA SW-846;

(iii) ASTM Method 4547;

(iv) EPA 600; or

(v) or other division-approved methods.

(c) In addition to Subparagraph (b) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, if the release occurred outside of a lined containment area and is in an area where depth to ground water is greater than 50 feet and less than or equal to 100 feet, the responsible party must delineate the vertical extent of the release to the greater of 600 mg/kg chloride or background chloride level, if:

(i) the release contains produced water that exceeds 10,000 mg/l of chloride (if the responsible party contends the fluid is less than 10,000 mg/l, the responsible party must provide current sample results to the division); and

(ii) the release is of an unknown quantity or results in greater than 200 barrels of unrecovered produced water.

(d) If the conditions are met in Subparagraph (c) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, the responsible party must submit at least two soil samples for laboratory analysis from each borehole or sample point (highest observed contamination and deepest depth investigated). Field screening and assessment techniques are acceptable (headspace, titration, electrical conductivity [include algorithm for validation purposes], electromagnetics, etc.), but the sampling procedures must be clearly defined. The responsible party must submit copies of field notes attributable to field sampling and provide copies of the actual laboratory results including chain of custody documentation.

(e) If a known release of other oil field related chemicals occurs that is not included in Table I of 19.15.29.12 NMAC, and does not include oil, gas, produced water or other fluids from the wellstream, the standards for remediation shall be as follows:

(i) if the constituent appears on Table 1 of 40 C.F.R. 261.24(b), then that constituent shall be remediated according to 40 C.F.R. 261.24;

(ii) if the constituent is not identified in Table 1 of 40 C.F.R. 261.24(b), but is identified in the New Mexico environment department's Risk Assessment Guidance for Site Investigations and Remediation Volumes I and II (assessment), the division will determine the appropriate Assessment Volume and remediation shall occur pursuant to the assessment;

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(iii) if the constituent is not identified in Items (i) or (ii) of Subparagraph (e) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, the division shall consult with the responsible party to determine appropriate remediation of the release.

B. Unless the site characterization report includes completed efforts at remediation, the report must include a proposed remediation plan in accordance with 19.15.29.12 NMAC, which includes the anticipated timelines for beginning and completing the remediation.

C. If the division determines that more information is needed to understand the character of the release and its potential impact on fresh water, public health and the environment, the division may request the responsible party submit additional information. Should the division request additional information, it must do so in writing to the responsible party within 30 days from receipt of the characterization report or remediation plan with what specific information the division is requesting and reasons why the additional information is needed. The responsible party has 14 days to respond to a written request for additional information. If the responsible party disagrees with the request for additional information, it may consult with the division, or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the issuance of the request for additional information. [19.15.29.11 NMAC - Rp, 19.15.29.11 NMAC, 8/14/2018]

19.15.29.12 REMEDIATION AND CLOSURE:

A. The responsible party must remediate all releases regardless of volume.

B. Remediation requirements.

(1) Unless remediation is completed, and a final closure report submitted, within 90 days of discovery of the release, the responsible party must complete division-approved remediation for releases either pursuant to a remediation plan approved pursuant to 19.15.29.12 NMAC or pursuant to an abatement plan in accordance with 19.15.30 NMAC. If the director determines that the release has caused water pollution in excess of the standards and requirements of 19.15.30 NMAC, the director may notify the responsible party that an abatement plan may be required pursuant to 19.15.30 NMAC.

(2) Any remediation under 19.15.29 NMAC should be completed as soon as practicable. Any remediation that exceeds 90 days must follow the division-approved timeline in the remediation plan. The responsible party may request an extension of time to remediate upon a showing of good cause as determined by the division.

C. Remediation plan requirements. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must submit a detailed description of proposed remediation measures in accordance with the findings of the site assessment/characterization plan that includes:

(a) delineation results, including laboratory analysis;

(b) a scaled sitemap showing release area with horizontal and vertical delineation points;

(c) estimated volume of impacted material to be remediated;

(d) proposed remediation technique; and

(e) proposed timeline for remediation activities.

(2) The responsible party shall restore the impacted surface area of a release occurring on a developed well pad, central tank battery, drilling site, compressor site or other exploration, development, production or storage sites to meet the standards of Table I of 19.15.29.12 NMAC or other applicable remediation standards and restore and reclaim the area pursuant to 19.15.29.13 NMAC. If contamination is located in areas immediately under or around production equipment such as production tanks, wellheads and pipelines where remediation could cause a major facility deconstruction, the remediation, restoration and reclamation may be deferred with division written approval until the equipment is removed during other operations, or when the well or facility is plugged or abandoned, whichever comes first. The deferral may be granted so long as the contamination is fully delineated and does not cause an imminent risk to human health, the environment, or ground water. Final remediation and reclamation shall take place in accordance with 19.15.29.12 and 19.15.29.13 NMAC once the site is no longer being used for oil and gas operations.

(3) The responsible party shall remediate the impacted surface area of a release not occurring on a lined, bermed or otherwise contained exploration, development, production or storage site to meet the standards of Table I of 19.15.29.12 NMAC or other applicable remediation standards and restore and reclaim the area pursuant to 19.15.29.13 NMAC.

(4) If a release occurs within the following areas, the responsible party must treat the release as if it occurred less than 50 feet to ground water in Table I of 19.15.29.12 NMAC:

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(a) within

(i) 300 feet of any continuously flowing watercourse or any other significant watercourse, or

(ii) 200 feet of any lakebed, sinkhole or playa lake (measured from the ordinary high-water mark);

(b) within 300 feet from an occupied permanent residence, school, hospital, institution or church;

(c) within

(i) 500 feet of a spring or a private, domestic fresh water well used by less than five households for domestic or stock watering purposes, or

(ii) 1000 feet of any fresh water well or spring;

(d) within incorporated municipal boundaries or within a defined municipal fresh water well field covered under a municipal ordinance adopted pursuant to Section 3-27-3 NMSA 1978 as amended, unless the municipality specifically approves;

(e) within 300 feet of a wetland;

(f) within the area overlying a subsurface mine;

(g) within an unstable area; or

(h) within a 100-year floodplain.

(5) The division has 60 days from receipt of the proposed remediation plan to review and approve, approve with conditions or deny the remediation plan. If 60 days have lapsed without response from the division, then the plan is deemed denied. If the plan is approved with conditions or affirmatively denied, the division shall provide a written summary of deficiencies on which the decision is based. If the responsible party disagrees with any conditions of approval or denial of the plan, it shall consult with the division or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the denial or issuance of the conditions.

D. Closure requirements. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must test the remediated areas for contamination with representative five-point composite samples from the walls and base, and individual grab samples from any wet or discolored areas. The samples must be analyzed for the constituents listed in Table I of 19.15.29.12 NMAC or constituents from other applicable remediation standards.

(a) The responsible party must verbally notify the appropriate division district office two business days prior to conducting final sampling. If the division district office does not respond to the notice within the two business days, the responsible party may proceed with final sampling. The responsible party may request a variance from this requirement upon a showing of good cause as determined by the division.

(b) The responsible party may submit a composite and grab sample plan for the division's review and approval separately or with the remediation plan.

(c) Alternately, without division approval, the responsible party may elect to perform a composite and grab sample plan of the remediated area where each composite sample is not representative of more than 200 square feet.

(2) If all composite and grab sample concentrations are less than or equal to the parameters listed in Table I of 19.15.29.12 NMAC or any conditions of approval, then the responsible party may proceed to backfill any excavated areas.

E. Closure reporting. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must submit to the division a closure report on form C-141, including required attachments, to document all closure activities including sampling results and the details on any backfilling, capping or covering, where applicable. The responsible party must certify that all information in the closure report and attachments is correct and that the responsible party has complied with all applicable closure requirements and conditions specified in division rules or directives. The responsible party must submit closure report along with form C-141 to the division within 90 days of the remediation plan approval. The responsible party may apply for additional time to submit the final closure report upon a showing of good cause as determined by the division. The final report must include:

(a) a scaled site and sampling diagram;

(b) photographs of the remediated site prior to backfill;

(c) laboratory analyses of final sampling; and

(d) a description of all remedial activities.

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(2) The division district office has 60 days to review and approve or deny the closure report. If 60 days have lapsed without response from the division, then the report is deemed denied. If the report is affirmatively denied, the division shall provide a written summary of deficiencies on which the decision is based. If the responsible party disagrees with denial of the closure report, it may consult with the division or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the denial.

Table I
Closure Criteria for Soils Impacted by a Release

Minimum depth below any point within the horizontal boundary of the release to ground water less than 10,000 mg/l TDS	Constituent	Method*	Limit**
≤ 50 feet	Chloride***	EPA 300.0 or SM4500 Cl B	600 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	100 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg
51 feet-100 feet	Chloride***	EPA 300.0 or SM4500 Cl B	10,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg
>100 feet	Chloride***	EPA 300.0 or SM4500 Cl B	20,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg

*Or other test methods approved by the division.
**Numerical limits or natural background level, whichever is greater.
***This applies to releases of produced water or other fluids, which may contain chloride.
[19.15.29.12 NMAC - N, 8/14/2018]

19.15.29.13 RESTORATION, RECLAMATION AND RE-VEGETATION:

A. The responsible party must substantially restore the impacted surface areas to the condition that existed prior to the release or their final land use. Restoration of the site must include the replacement of removed material and must be replaced to the near original relative positions and contoured to achieve erosion control, long-term stability and preservation of surface water flow patterns.

B. Areas reasonably needed for production operations or for subsequent drilling operations must be compacted, covered, paved or otherwise stabilized and maintained in such a way as to minimize dust and erosion to the extent practical.

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C. The responsible party must construct the soil cover to the site's existing grade and prevent ponding of water and erosion of the cover material.

D. Reclamation of areas no longer in use. The responsible party shall reclaim all areas disturbed by the remediation and closure, except areas reasonably needed for production operations or for subsequent drilling operations, as early and as nearly as practical to their original condition or their final land use and maintain those areas to control dust and minimize erosion to the extent practical.

(1) The reclamation must contain a minimum of four feet of non-waste containing, uncontaminated, earthen material with chloride concentrations less than 600 mg/kg as analyzed by EPA Method 300.0, or other test methods approved by the division. The soil cover must include a top layer, which is either the background thickness of topsoil or one foot of suitable material to establish vegetation at the site, whichever is greater.

(2) The responsible party must reseed disturbed area in the first favorable growing season following closure of the site.

(3) The division will consider reclamation of all disturbed areas complete when uniform vegetative cover has been established that reflects a life-form ratio of plus or minus fifty percent of pre-disturbance levels and a total percent plant cover of at least seventy percent of pre-disturbance levels, excluding noxious weeds.

(4) For any major or minor release containing liquids, the responsible party must notify the division when reclamation and re-vegetation are complete.

E. The surface restoration, reclamation and re-vegetation obligations imposed by federal or state agencies or tribes on lands managed or owned by those agencies supersede these provisions and govern the obligations of any responsible party subject to those provisions, provided that the other requirements provide equal or better protection of fresh water, human health and the environment.

[19.15.29.13 NMAC - N, 8/14/2018]

19.15.29.14 VARIANCES:

A. A responsible party may file a written request for a variance from any requirement of 19.15.29 NMAC with the appropriate division district office. The variance request must include:

(1) a detailed statement explaining the need for a variance; and

(2) a detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment.

B. The division district office must approve or deny the variance in writing within 60 days of receipt. If the division district office denies the variance, it must provide the responsible party with the reasons for denial.

C. If the division district office does not approve or deny a request for variance from the requirements of 19.15.29 NMAC within 60 days of the date the request for variance is received by the division district office, then the request for variance is deemed denied and the responsible party may file an application for a hearing pursuant to 19.15.4 NMAC within 30 days of the denial.

D. If the responsible party requests a hearing pursuant to 19.15.4 NMAC within 30 days after receipt of notice, the division must set the matter for hearing with notice to the responsible party and appropriate division district office.

E. In addition to the notice provisions in 19.15.4 NMAC, the responsible party must provide notice of the hearing on the request for variance to the surface owner of the site by certified mail, return receipt requested, at least 20 days prior to the date of the hearing.

F. Variances must receive division approval prior to implementation.

[19.15.29.14 NMAC - N, 8/14/2018]

19.15.29.15 ENFORCEMENT:

A. The responsible party must comply with all the requirements of 19.15.29 NMAC. The division may take enforcement action pursuant to 19.15.5.10 NMAC against any responsible party who does not comply with 19.15.29 NMAC.

B. A responsible party may enter a stipulated final order with the division for any violation of 19.15.29 NMAC, except for 19.15.29.9 NMAC. An agreed compliance order may be entered prior to or after the filing of an application by the division or any other party for an administrative compliance proceeding. Any administrative compliance order will have the same force and effect as a compliance order issued after an adjudicatory hearing.

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C. The director or the director's designee may deny any application or permit, including but not limited to, a permit to drill, deepen or plug back a well if the responsible party is not in compliance with a court order or final order arising from 19.15.29 NMAC.
[19.15.29.15 NMAC - N, 8/14/2018; A, 8/24/2021]

19.15.29.16 TRANSITIONAL PROVISIONS:

A. Responsible parties with current ongoing corrective actions/remediation with approved plans and timelines as of August 14, 2018 do not have to submit revised plans.

B. Responsible parties with ongoing corrective actions/remediation without approved timelines or plans as of August 14, 2018 must submit a characterization plan or corrective action/remediation plan with proposed timeframes within 90 days of August 14, 2018.
[19.15.29.16 NMAC - N, 8/14/2018]

HISTORY of 19.15.29 NMAC:

History of Repealed Material:
19.15.3 NMAC, Drilling (filed 10/29/2001) repealed 12/1/2008.
19.15.29 NMAC, Release Notification (filed 12/1/2008) was repealed effective 8/14/2018.

NMAC History:
That applicable portion of 19.15.3 NMAC, Drilling (Section 116) (filed 10/29/2001) was replaced by 19.15.29 NMAC, Release Notification, effective 12/1/2008.
19.15.29 NMAC, Release Notification (filed 12/1/2008) was repealed and replaced by 19.15.29, Releases, effective 8/14/2018.

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Operator Follow-Up with OCD on County Line Seismicity

March 14, 2022

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Agenda

- Operator & OCD response
- Update on County Line seismicity
- Proposed next steps

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County Line Response Timeline

Event	Action/Result	Response Plan In Place
2020: Two ML2.5+ events in area		
3/19/2021: ML3.4 event in area	Inter-operator & OCD-operator discussions	Ad-hoc
7/19: ML4.0 event in area	Response Group formed & nearest well shut in	
8/15: ML3.2 event near ML4.0	Discussed at upcoming OCD meeting	Operator-Led Response Plan
8/18: Meeting with OCD (Santa Fe)	OCD revisions to proposed operator response	
9/13: Meeting with OCD (Zoom)	No further revisions requested by OCD	
9/21: ML3.2 event near ML4.0	Second nearest well shut in per response plan	
11/23: OCD Protocol issued	Result of industry-OCD collaboration Oct-Nov	
1/6/2022: CL ISA letters Issued	Issued to SWD operators within 10 mi. of seismicity	
1/6 – 1/28: Period of clarification	Sought clarity on expected operational response	
1/28: OCD response letter	Advised adherence to OCD response protocol	OCD
1/28 onward: Curtailment implementations	All deep SWD operators in compliance with rate reductions	

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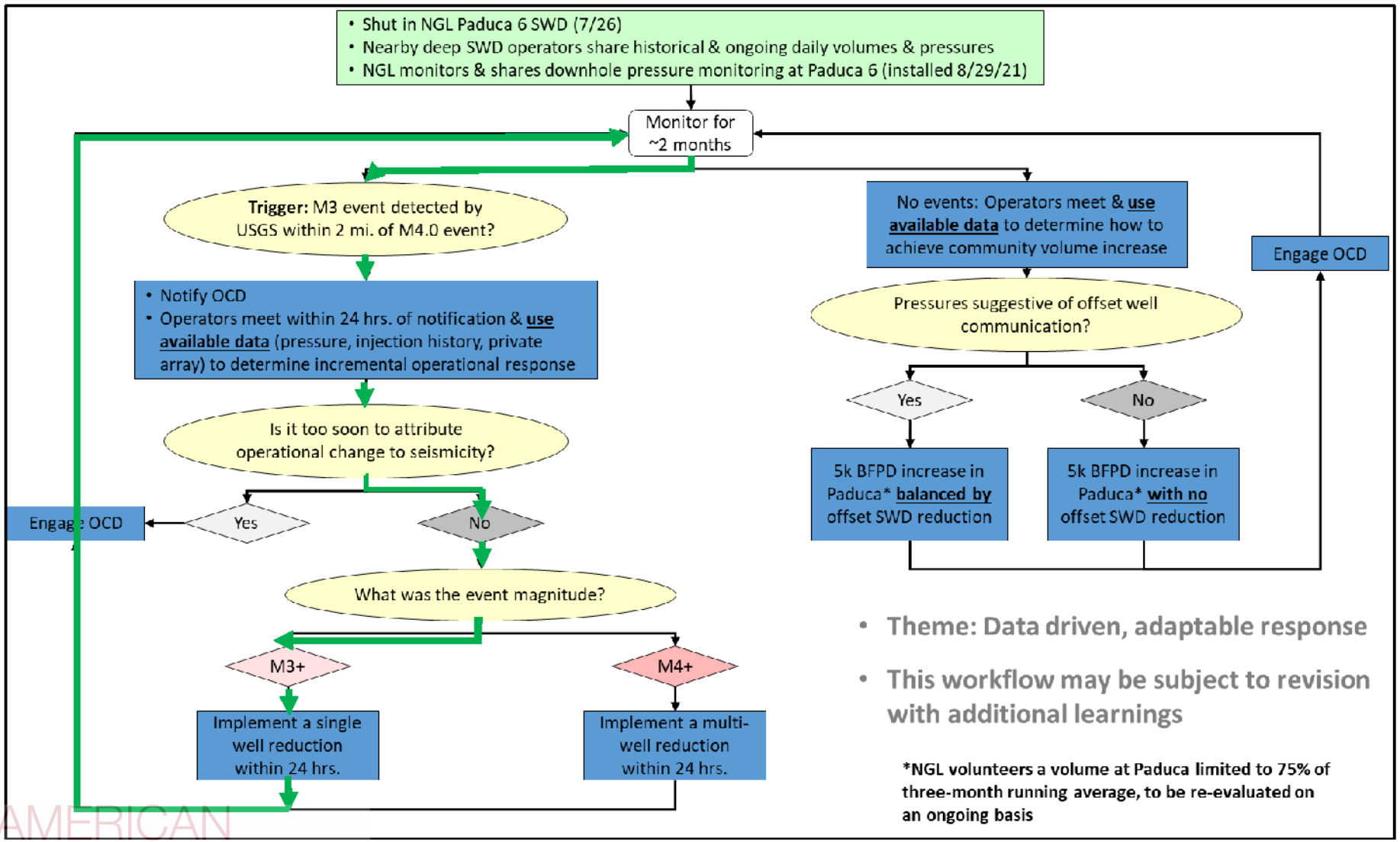
Operator-Led Response Tree



Currently operating under NMOCD Seismicity Response

- NGL Paduca well shut-in almost immediately
- Response tree developed by 8/18 and finalized with OCD feedback on 9/13
- In effect the first several months, while working with OCD on state-wide response protocol
- Left side triggered once, with ML3.5 on 9/21/2021, resulting in Mewbourne Red Hills well shut-in

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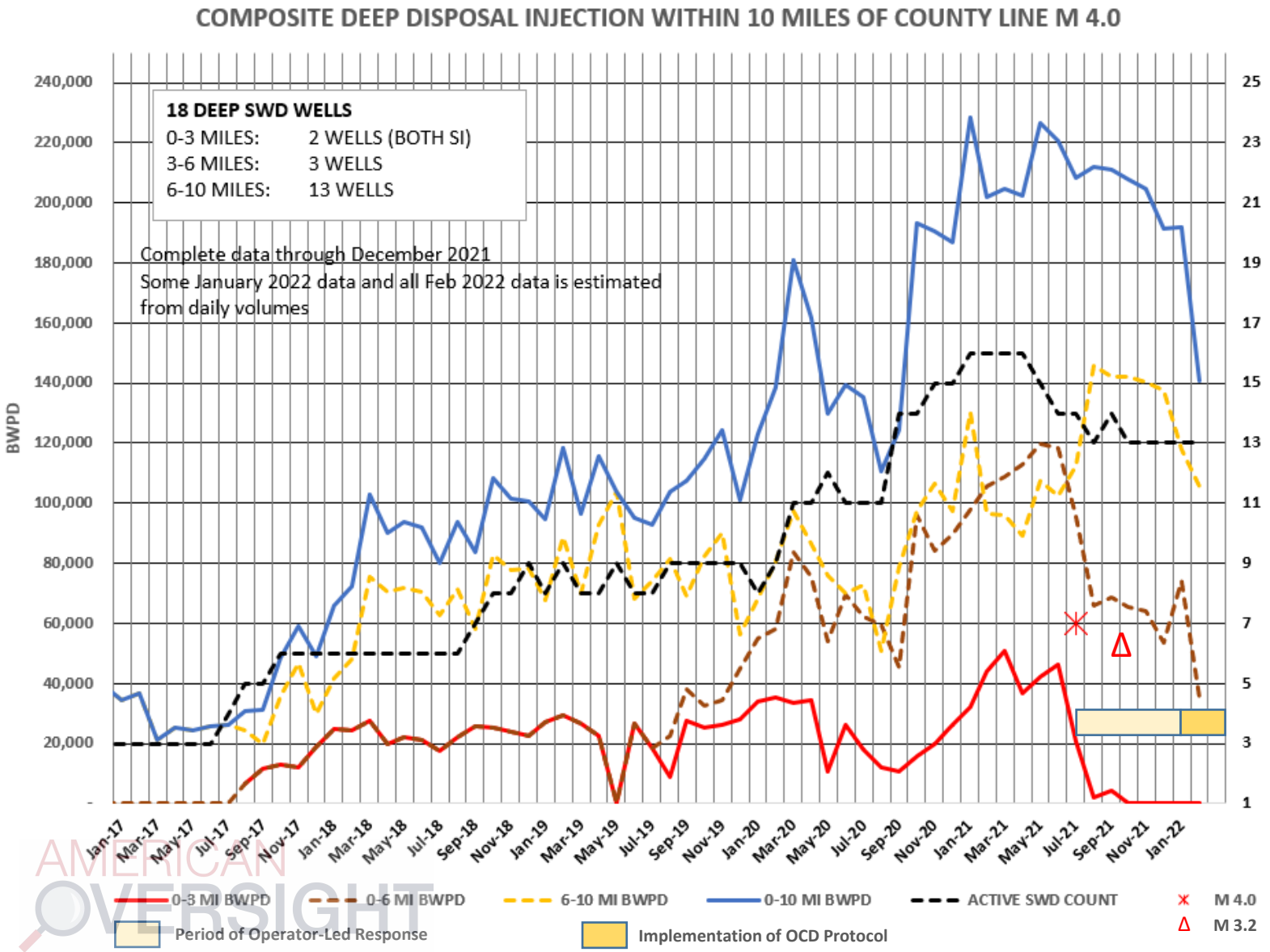
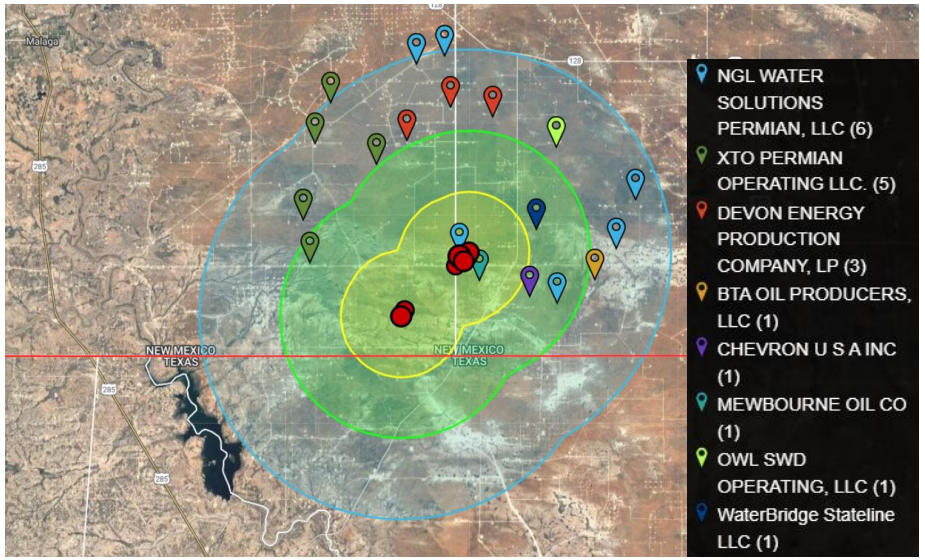
OCD Induced Seismicity Response Protocol





Map of deep SWD wells within 10 miles of M4.0 event
AOI's from NMOCD
EQ data from USGS

- Total bbl reduction within 10 miles ~ 70,000 bbls / day
- Deep SWD wells within 10 mi. radius in compliance with OCD rate reduction protocol

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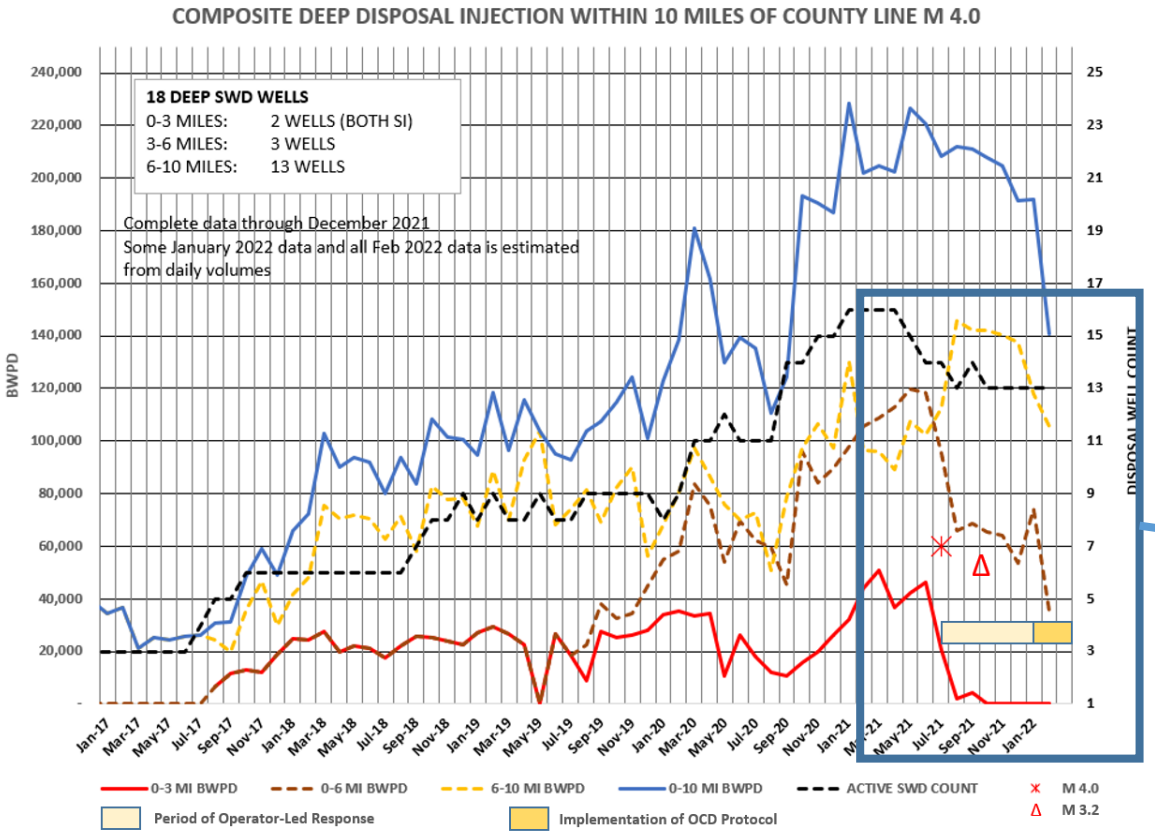
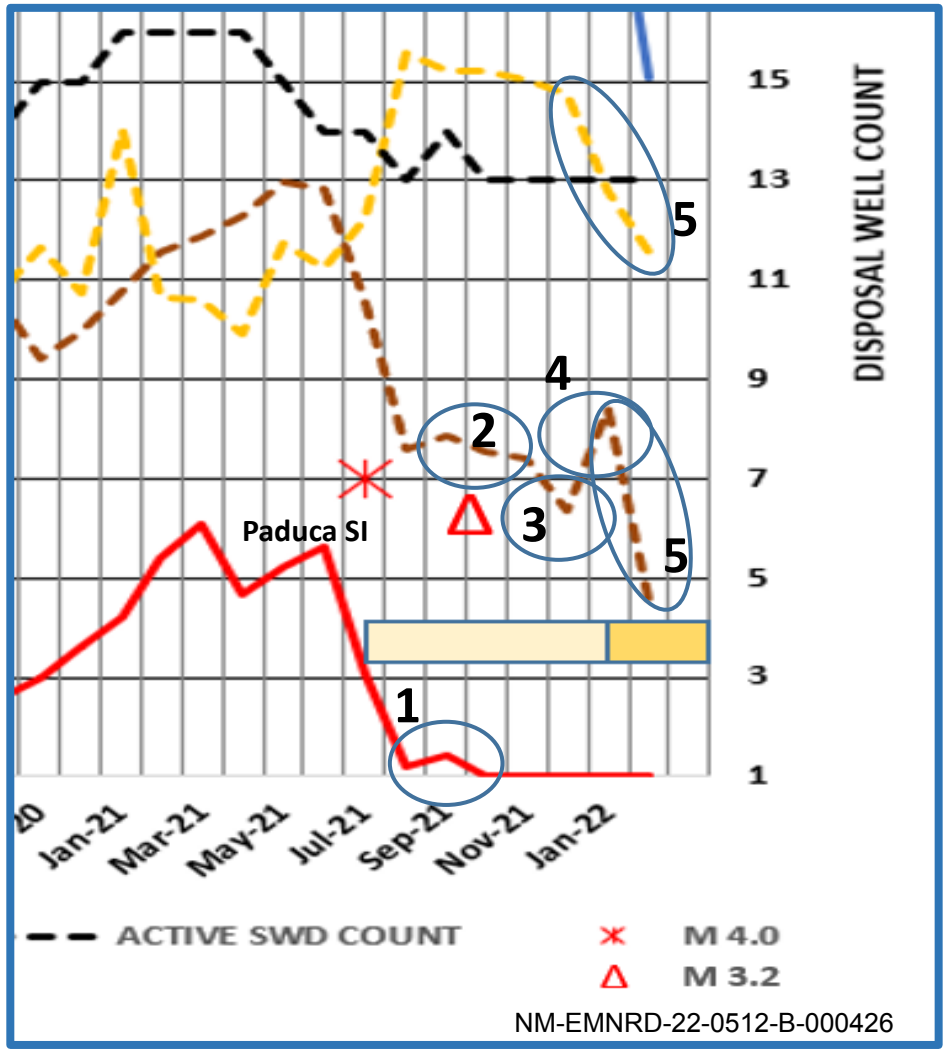
OCD Induced Seismicity Response Protocol – Detailed Actions





Operator Actions:

1. Red Hills Test & Shut In (SI)
2. Monsoon curtailment (10K bbls / day)
3. Maelstrom SI (30 – days – 25K bbls / day)
4. Maelstrom pulse test
5. OCD Protocol Implemented

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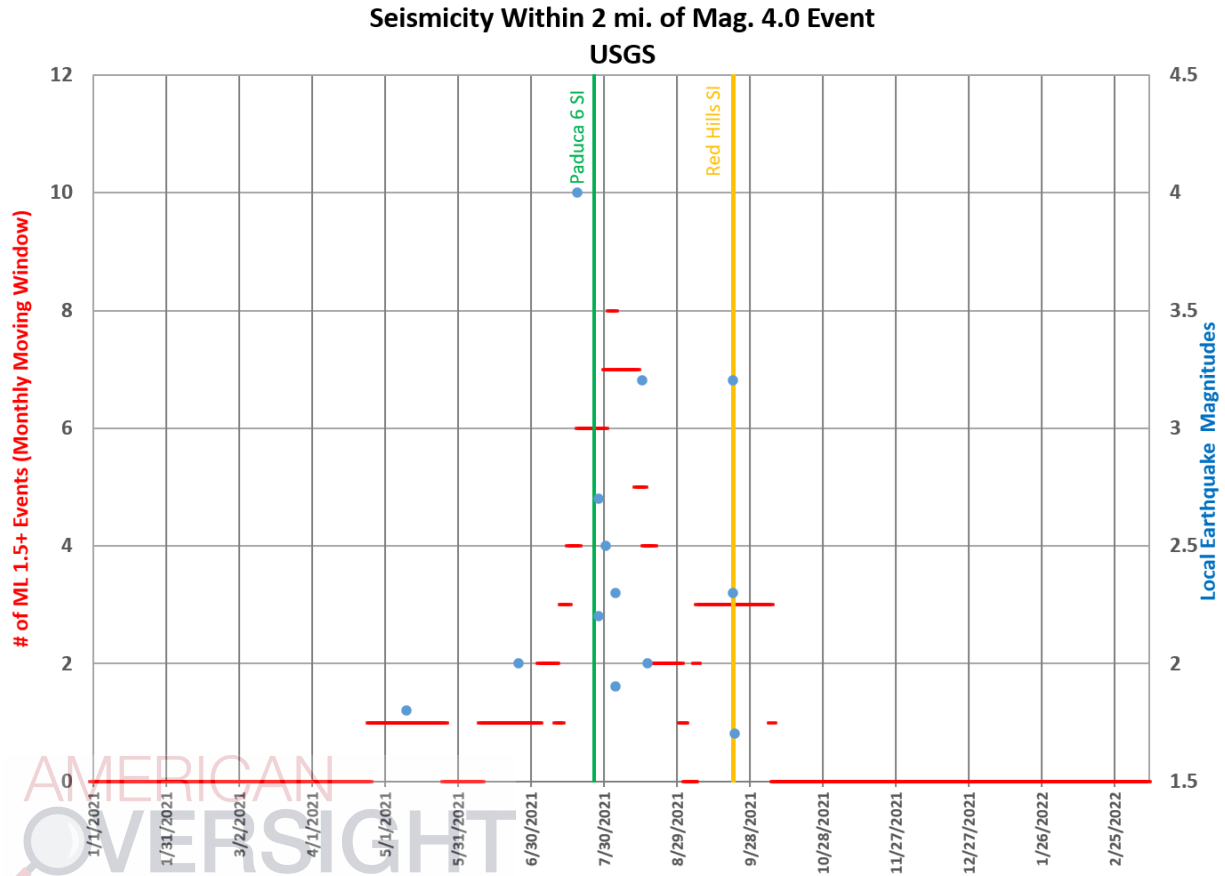
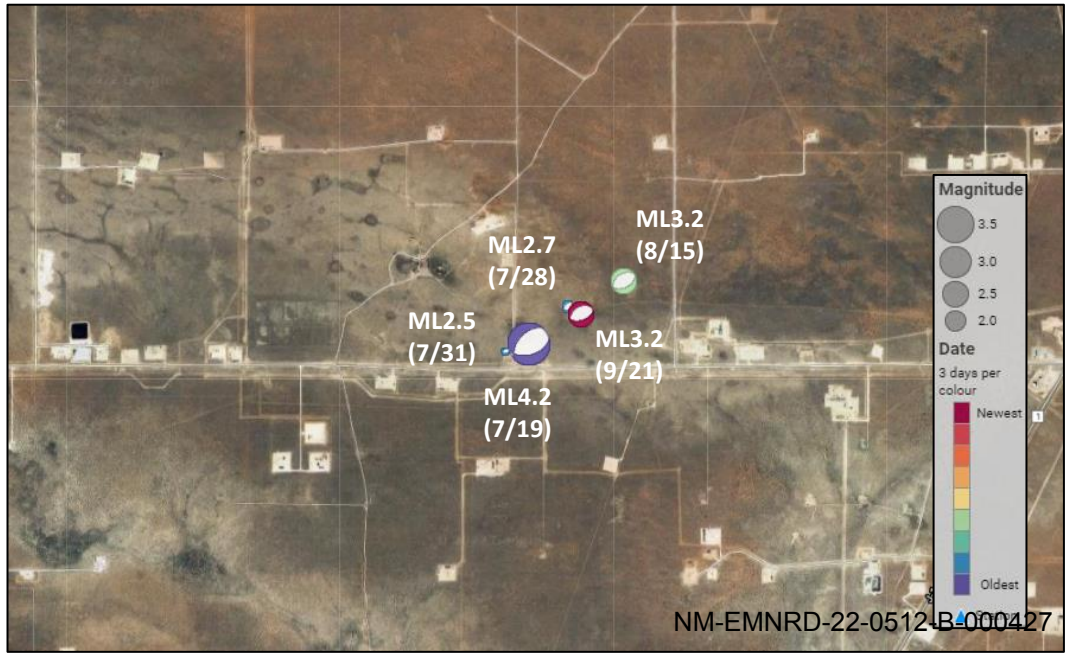
Seismicity History Near Mag. 4.0 Event

- Increase in seismic event frequency & magnitude leading up to M 4.0 on 7/19
- Sharp decrease in frequency & magnitude of seismicity since response, with no M 1.5+ events since 9/26/2021
- No M 2.5+ events since 9/21/21



M 2.5+ Events in County Line Sequence



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County Line Seismicity Response Group Proposal

Status & Results

- 6-month mark since an ML2.5+ event is approaching (3/21/2022)
- All events within 2 mi. of the ML4.0 event on 7/19/21 have been <ML1.5 during that 6-month period
- Operator response showing a positive correlation with reduced EQ events in County Line Response Area
- Industry and OCD cooperative response to seismicity

Proposal: Stay the course and begin more frequent dialog

- Keep OCD induced seismicity protocol in place and monitor seismicity & pressure response
- Begin periodic County Line technical meetings between Seismicity Response Group & OCD to share learnings and propose possible changes in curtailment

Proposed Dates	Topic
March 11, 2022	Alignment prior to 6-month anniversary of ML2.5+ seismicity
May 11, 2022	Share seismicity & pressure learnings prior to 8-month anniversary
August 10, 2022	Share seismicity & pressure learnings prior to 1-year anniversary
November 9, 2022	Continued dialog as warranted

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ASSIGNMENT OF TRADEMARKS AND TRADEMARK REGISTRATION RIGHTS

This Assignment of Trademarks and Trademark Registration (this "Assignment") is entered into and effective this ___ day of March, 2022, by and between Ground Water Protection Council, a non-profit corporation of Oklahoma located at 13308 N. MacArthur Blvd Oklahoma City, Oklahoma 73120 (GWPC) and Interstate Oil and Gas Compact Commission, a multistate governmental agency with an address of 900 NE 23rd Street Oklahoma City Oklahoma 73105, (IOGCC) each individually referred to as a "Party" and collectively referred to as the "Parties". All capitalized terms that are used but not defined herein have the meanings assigned to them in the Agreement.

WHEREAS, the parties are co-owners of the trademark and service mark registrations set forth on Schedule 1 attached hereto (the "Registrations") for the trademark and service mark (the "Registered Trademarks") listed in the Registration, and have adopted, have used and are currently using the Registered Trademarks; and

WHEREAS, GWPC has agreed to acquire all of IOGCC's right, title and interest in and to the Registered Trademarks and IOGCC has agreed to transfer to GWPC all of IOGCC's right, title and interest in and to the Registered Trademarks:

NOW, THEREFORE, in consideration of the foregoing and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. For good and valuable consideration, IOGCC does hereby assign, transfer, convey and set over unto GWPC its full right, title and interest, including common law rights, in, to and under the Trademarks, including all goodwill accrued in connection and associated therewith, and the exclusive right to enforce the Trademarks in the sole name of GWPC, including the right to sue for past infringement if any there may be.

2. This instrument shall be binding upon IOGCC and its successors and assigns, and shall inure the benefit of GWPC and its successors and assigns.

[Signatures appear on the following page.]

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IN WITNESS WHEREOF, the Parties hereto, intending to be legally bound thereby, have executed this Assignment as of the date first written above.

Ground Water Protection Council

By: _____
Name: _____
Title: _____

Interstate Oil and Gas Compact Commission

By: _____
Name: _____
Title: _____

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SCHEDULE 1

Registered Trademarks:

1. U.S. Reg. No. 4142155 for



Registered May 15, 2012

2. Canadian Reg. No. TMA852227 for



Registered May 31, 2013

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From: Eric.Vendel@dnr.ohio.gov <Eric.Vendel@dnr.ohio.gov>
Sent: Wednesday, March 30, 2022 9:24 AM EDT
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: FW: Comments for Initial Grant Guidelines
Attachment(s): "Cover Letter - Initial Grant Guidelines Comments.pdf","Comments to Initial Grant Guidelines.pdf"

From: Vendel, Eric
Sent: Wednesday, March 30, 2022 9:23 AM
To: orphanedwells@ios.doi.gov
Subject: Comments for Initial Grant Guidelines

Please find attached a cover letter and Ohio's comments to the Initial Grant Guidelines. Should you have any questions concerning the comments, please feel free to contact me.

Regards,
Eric Vendel, Chief
Ohio Department of Natural Resources, Division of Oil and Gas Resources Management

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Ohio Comments to Department of the Interior's FY 2022 State Initial Grant Guidance

Topic	FY 2022 State Initial Grant Guidance	Sec. 40601 of Public Law 117-58	Comments
Best practices for state plugging program	"2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting of a program to plug, remediate, and reclaim orphaned wells on state and private lands." p. 1. "Many of these best practices may form the basis for future requirements in the subsequent orphan well grants, so states expecting to apply for subsequent rounds of grants are encouraged…" p. 1.	No requirements	Recommend removal of these references so as not to confuse the requirements for initial grants from the Infrastructure, Investments, and Jobs Act and the grant guidance. The Act does not contain any requirements regarding best practices. In addition, removal of these best practices allows each state to implement their state statutes and rules applicable to plugging and apply state staff's experience and knowledge of the state geology and wells as best practices for the proper plugging of the wells.
"Date of receipt of funds" definition	"…is the date on which the awarded grant is available for *obligation* in the receiving…" p. 2	No provision	The definition of date of receipt of funds uses the word "obligation" in the definition, but the word obligation is not defined. Recommend defining "obligation" in the guidelines to clarify the meaning.
"Orphaned Well" definition	"With respect to State of private land, the term *also*: …" p. 3	No provision	The inclusion of the word "also" in the definition with respect to state and private

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			lands is confusing and misleading. The inclusion of "also" suggests that the definition of orphaned well applicable to the states incorporates the definition listed for federal or tribal land. Recommend replacing "also" with "means either of the following". The change would result in the two definitions applicable to state and private land only.
"obligated" definition	No provision	No provision	Recommend including a definition for "obligated" as that term is referenced in the definition for "date of receipt of funds" and it appears in the second sentence of paragraph E on p. 4 of the guidelines. This will provide more clarity.
III. Permissible Uses of Initial Grant Funds D. p. 4	P.4 Requires that a State for a large-scale Initial grant include a certification that the state will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging ….	Section 40601(c)(A)(I)(II)(cc)	Recommend clarification whether the new contract may be signed prior to the distribution of the funds to the state.
"C. Recommended Elements" pp. 6-7	PP. 6-7 lists recommended elements that the Department of the Interior has determined are important components	No requirements	Recommend the removal of the Recommended Elements for the initial grants. These Recommended Elements are not required under Public

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	of successful orphan well program.		Law 117-58. If these elements are retained and/or incorporated into the guidelines for the formula or performance grants, many are not required by the Act and would recommend including only those elements required Sec. 349(c)(4)(B) of the Act.
IV. Instructions For Initial Grant Applications B. ii. Detailed Budget Proposal/Justification p. 5	P. 5 Detailed Budget Proposal/Justification requires itemized budget breakdown with unit cost for purposes of the application for initial grants.	No provision	Recommend revising the requirements as State use of contractors and consultants for plugging of wells does not allow for these itemized unit costs during the application process. States are already securing contractors and consultants and the guidelines were not finalized at the time of contracting, so States were unaware of these additional requirements. In addition, a state will not know these itemized unit costs until the contractors and consultants complete the work, so it is not possible to estimate at the time of the initial grant application.
V. Recommended standards for Measurement, Plugging, and Remediation pp. 8-9	Pp. 8-9 establish recommended standards for measurement, plugging, and remediation. The second sentence under	No requirements	Recommend the removal of the Recommended Elements for the initial grants. These Recommended Elements are not

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	Pre- and Post-Plugging Measurement or Estimation of Air and Water Pollution reads "States ***are also expected*** to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetative performance standards appropriate to the site's future land uses."		required under Public Law 117-58. If these elements are retained and/or incorporated into the guidelines as recommendations, the second sentence should be revised to remove "are also expected" as it is recommended not required. In addition, the clause "…the achievement of vegetative performance standards appropriate to the site's future land uses" appears misplaced as this section addresses air and water pollution.
V. Recommended standards for Measurement, Plugging, and Remediation p. 9	A. ii. "States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized). States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.	No requirement	As acknowledged in the guidelines, no current methodology is finalized to complete this work. Therefore, contractors are not at this time prepared to complete this work. Procurement of services for states is a time-consuming and expensive process. Incorporating this work into initial grants is not feasible due to the lack of methodology and timing of the initial grant applications. A recent discussion with experts in methane emission measurement stated that the cost to measure the methane emissions will be at least $10,000 per well,

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			which may be 20% of the plugging costs of a well results in less wells being plugged.
VII. Reporting Requirements E. Data Collection and Reporting pp. 10-11	pp. 10-11 establishes criteria that will be incorporated into Formula grants and Performance grants	No requirement	A state cannot easily implement a data tracking system through existing systems such as RBDMS. Typically, there are state procurement requirements that must be followed. After acquisition of a system, it must be implemented on a state network that must implement state security protocols. This is a time consuming and expensive processes. Recommend eliminating (E)(1)(c) as states are contracting to have the work performed and the oilfield labor force is transient and changes at a moment's notice. E.g. a water truck driver arrives at a site to deliver or remove water and then never returns to the site. This is overly burdensome to track.
VIII. DOI Standard Award Terms and Conditions p.12-13	C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall	No requirement	Ohio statute establishes the authority for Ohio Division of Oil and Gas employees and persons the Division contracts with may enter on the

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	provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.		land to perform the plugging/restoration work. Any other person entering onto private land may be trespassing. Recommend removing the statement providing the federal awarding agency to make site visits and the requirement that states provide federal awarding agency access to project sites to the extent necessary and appropriate. The removal of that statement will avoid trespass liabilities.
VIII. DOI Standard Award Terms and Conditions p.12-13	G. Section 70914 of the Act prohibits the obligation of funds under a federal award unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States unless subject to an approved waiver.	Section 70914 of the Act	Recommend as a solution allowing an affidavit from contractors attesting that the materials are produced in the United States as there is no way for a state to ensure all products are produced in the United States. Recommend further discussion to clarify the requirements of the waiver provisions. If this requirement is not clarified in a workable manner, the work pursuant to the initial grants may be greatly delayed.

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Ohio Department of Natural Resources

MIKE DEWINE, GOVERNOR — MARY MERTZ, DIRECTOR

Eric Vendel, Chief
Division of Oil & Gas Resources Management
2045 Morse Rd, Building F-3
Columbus, Ohio 43229
Phone: (614) 265-6922; Fax: (614) 265-6910
www.ohiodnr.gov

March 28, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U. S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon,

The Ohio Department of Natural Resources, Division of Oil and Gas Resources Management (Division) is the regulatory body in Ohio that is responsible for the program that plugs orphaned oil and gas wells. The State of Ohio implemented an orphan well plugging program in 1978 and has been plugging wells in various capacities since its inception. Because of the long history of oil and gas exploration in Ohio prior to the Division being created in 1965, thousands of orphan wells exist in the state. The Bipartisan Infrastructure and Jobs Act is a great opportunity for states to address the plugging of orphan wells, restoring well sites, and protecting communities and the environment while creating jobs.

One of the principal objectives of the Initial Grant under the Act is to provide either $5,000,000 or $25,000,000 to the states for plugging, remediation, and reclamation with minimal requirements. Enclosed with this cover letter are the Division's comments in a table format that references the topic, the applicable draft guideline, the applicable language of the Act, and the Division's comment. A number of the Division's comments recommend removal of many of the recommendations and requirements for the Initial Grant in order for states to implement their programs and prepare for the requirements in the Act applicable to the Formula Grants and Performance Grants. Furthermore, the recommendations and requirements for the Initial Grant add considerable time and expense, which defeats the principal objectives of the Initial Grant.

I hope that these comments are helpful to you. The Division appreciates the collaboration with the Department of the Interior on the guidelines for implementation of the Act and ultimately, the successful use of the funding.

Sincerely,

Eric Vendel, Chief
Ohio Division of Oil and Gas Resources Management
Enclosure: Ohio Comments to the Department of the Interior's FY 2022 State Initial Grant Guidance

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NM-EMNRD-22-0512-B-000439

From: Sandoval, Adrienne, EMNRD
Sent: Wednesday, May 18, 2022 12:18 PM EDT
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Luck, Kaitlyn, EMNRD <Kaitlyn.Luck@state.nm.us>
Subject: FW: [EXTERNAL] C129 update

FYI see below.

From: Greaves, David <david.greaves@exxonmobil.com>
Sent: Tuesday, May 17, 2022 4:05 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] C129 update

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Adrienne – Per our visit last week, I wanted to let you know we are now ready to start submitting the C-129s that we missed from over the last year. We have completed our gap assessment and compilation of data, and we expect ~1100 C-129 filings will be needed. We have aligned additional support within our company to assist with making the filings as there does not appear to be an option to mass upload submissions (we did check with your team). We expect it will take ~5 weeks to get these all completed and uploaded.

Should start seeing these submissions within the next day assuming all goes well. Please let me know if you require additional information.

Regards,

David Greaves
SHE, Regulatory & Production Accounting Manager - Permian
XTO Energy, a subsidiary of ExxonMobil
david.greaves@exxonmobil.com
Cell: 281-636-9970
Phone: 432-221-7334

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From: Sandoval, Adrienne, EMNRD
Sent: Wednesday, February 16, 2022 7:50 PM EST
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>
Subject: FW: [EXTERNAL] CRO Special Meeting - IOGCC Roundtable on Plugging Contract Practices - Slide Deck
Attachment(s): "Plugging Contract Practices Roundtable Slide Deck.pdf"

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Wednesday, February 16, 2022 10:21 AM
To: Benjamin Spears (DNR) <Benjamin.Spears2@la.gov>; Brian.Lacey@conservation.ca.gov; Corey.Crawford@rrc.texas.gov; Cwvanderbusch@nd.gov; David.M.Taylor@FloridaDEP.gov; Denetta.Brannon@occ.ok.gov; Dianne Jones <dianne.jones@iogcc.state.ok.us>; Frank_thorwald@hotmail.com; Frankthorwald@thorwaldgroup.com; Henry.j.harmon@wv.gov; james.a.martin@wv.gov; Maureen.Nwangene@conservation.ca.gov; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Roxanne.Reiley@tn.gov; aaron.szapa@dnr.mo.gov; abdel.zellou@conservation.ca.gov; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; adtabor@nd.gov; alvaro.linero@dep.state.fl.us; amber.steele@dnr.mo.gov; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; andrew.adgate@dnr.state.oh.us; apeltz@edf.org; azogcc@azdeq.gov; bartkettle@utah.gov; bgregory@ogb.state.al.us; bhicks@nd.gov; bjones@mt.gov; blake.canfield@la.gov; bob.brinkmann@oregon.gov; brad.boyd@energy.virginia.gov; broyer@dnr.in.gov; catherine.dickert@dec.ny.gov; cindy.mulkey@dep.state.fl.us; clay.woodul@rrc.texas.gov; colleen.forrest@rrc.texas.gov; cori.troutman@ky.gov; courtney.kasberg@conservation.ca.gov; craig.hagy@energy.virginia.gov; dan.brennan@illinois.gov; david.andrews@state.co.us; dennis.hatfield@ky.gov; dhaag@azland.gov; duleyw@michigan.gov; erika.giorgi@conservation.ca.gov; gary.looney@aogc.state.ar.us; gina.cavender@ky.gov; gklotz@mt.gov; gordonr.slone@ky.gov; gregory.scott@dec.ny.gov; gregory_nottingham@ios.doi.gov; hernando.albarracin@illinois.gov; hilary.porter@alaska.gov; hwise@pa.gov; jabraunns@pa.gov; jacob.nichols@alaska.gov; james.judge@dnr.ohio.gov; jarrett.ellis@state.co.us; jason.simmerman@dnr.ohio.gov; jeremy.price@alaska.gov; jessie.chmielowski@alaska.gov; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; johnbaza@utah.gov; johnny.adams@la.gov; jthum@idl.idaho.gov; kahaarsager@nd.gov; katie.crocker@ky.gov; keith.may@rrc.texas.gov; kevin.keane@dec.ny.gov; kidderk1@michigan.gov; kklapkowsk@pa.gov; Kirk McQuillan <kmcquillan@ogb.state.al.us>; kristofer.roser@dnr.ohio.gov; lblake@ogb.state.al.us; linda.polk@alaska.gov; lisa.halko@conservation.ca.gov; lydia.sinemus@energy.virginia.gov; mark.merritt@illinois.gov; Marvin Combs <marvin.combs@ky.gov>; matthew.podniesinski@dec.ny.gov; maureenonyx@yahoo.com; mbohrer@nd.gov; mdziesch@nd.gov; melissa.glau@conservation.ca.gov; mike.mcginnis@occ.ok.gov; mrogers@ogb.state.al.us; mthomas@idl.idaho.gov; mvisher@minerals.nv.gov; mwarren@blm.gov; natashaballif@utah.gov; rdloumer@nd.gov; reneea.lofton@dogami.oregon.gov; rivesta@michigan.gov; robert.roys@alaska.gov; roby.fulkerson@la.gov; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; rretherford@dnr.in.gov; s.duffy@kcc.ks.gov; sbelieu@nogcc.ne.gov; Scott Perry (scperry@pa.gov) <scperry@pa.gov>; servicecontracts@conservation.ca.gov; Suzannah Hafford <Suzannah.Hafford@occ.ok.gov>; t75murph@blm.gov; tabor141@yahoo.com; thor.vue@alaska.gov; Tom Kropatsch <tom.kropatsch@wyo.gov>; tracie.paladijczuk@alaska.gov; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; vtran0308@gmail.com; wassim.estwani@conservation.ca.gov; wendy.johnson@conservation.ca.gov; Lodder, William B <William_Lodder@ios.doi.gov>; wiwalsh@pa.gov; Sivalingam, Yuvaraj@DOC <Yuvaraj.Sivalingam@conservation.ca.gov>; PRIEST Zee SR DGMI <zee.sr.priest@dogami.oregon.gov>
Cc: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Dianne Jones <dianne.jones@iogcc.state.ok.us>
Subject: [EXTERNAL] CRO Special Meeting - IOGCC Roundtable on Plugging Contract Practices - Slide Deck

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning,

Attached is the slide deck for the CRO Special Meeting - IOGCC Roundtable on Plugging Contract Practices for your convenience.

We ae looking forward to today's session!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

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The Council of Regulatory Officials Special Meeting: Contracting Practices for Regulators Roundtable

Wednesday, February 16, 2022

12:00 PM – 1:30 PM CT

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NM-EMNRD-22-0512-B-000442

INTERSTATE Oil & Gas COMPACT COMMISSION

Program Moderator:
Dave Hardie, Chair, IOGCC Council of Regulatory Officials

For technical support during this webinar contact Kaitlyn Smith at Kaitlyn.smith@iogcc.state.ok.us

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INTERSTATE Oil&Gas COMPACT COMMISSION

Case Studies:

Alberta, Lars DePauw, Executive Director, Orphan Well Association

Colorado, Eric Nickell, Buyer, Orphan Well Program, COGCC

Kansas, Ryan Hoffman, Director, Kansas Corporation Commission

Michigan, Adam Wygant, Director and State Geologist Oil, Gas, and Minerals Division Department of Environment, Great Lakes Energy

Oklahoma, Brad Ice, Field Operations Manager Oklahoma Corporation Commission

Texas, Patrick Shelton, Attorney, and Jesse Herrera, Contract Administration Manager, Railroad Commission of Texas

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INTERSTATE Oil & Gas COMPACT COMMISSION

Orphan Well Association



IOGCC Roundtable
February 16, 2022

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The Alberta Orphan Well Association (OWA)

- **OWA manages all work on Orphan properties in Alberta (100% Working Interest only)**
- **The OWA is a delegated authority of the Alberta Energy Regulator**
  - But isn't a government organization
- **Mandate of the organization:**
  - Safe and ***efficient*** closure of sites
- **Procurement practices are meant to be fair and inclusive but do not follow requirements similar to government organizations**
  - They are at the discretion of the OWA to maximize our efficiency

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Orphan Well Association

Orphan Well Association

The Alberta Orphan Well Association (OWA)

- **OWA has received two interest free loans (not grants) - $535 million (CAN)**
  - Province of Alberta
    - $335 million total (2017 and 2020 amendment)
  - Government of Canada
    - $200 million (2020)
- **AER issues an annual levy on all producers in Alberta (transferred to OWA)**
  - $70 million (2021)
- **Annual Expenditures and work completed:**

	2019/20	2020/21	2021/22 (budget)
Expenditures	$114mm	$172mm	$218mm
Wells Abandoned	982	1,922	2,000
Sites Reclaimed	380	1,144	1,700

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Orphan Well Association

Orphan Well Association

Structure for OWA

- **Field work is conducting using "Area Based Closure" focus to maximize efficiencies**
- **OWA Staff – 30 individuals (project managers). OWA oversees work of Prime Contractors**
- **OWA contracts all field work to ~25 Prime Contractors**
  - Also used ~1,500 subcontractors in last 5 years
- **Procurement of subcontractors is conducted by Prime Contractors and approved by OWA**
  - Have tried multiple alternative ideas to improve efficiencies
- **OWA has contracts with our Prime Contractors only but pays Subcontractors directly**
  - No mark-up of invoices

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Orphan Well Association



High Performance Procurement and Contracting for Orphaned Well Work

for IOGCC's Roundtable on Contracting Practices

Feb 16, 2022

COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

Eric Nickell
Buyer, Orphaned Well Program

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NM-EMNRD-22-0512-B-000449

Agenda

- Shed Paper (e.g., Contract Documents)
- Decentralize Bid Work
- Your Questions

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Contracting Orphaned Well Projects

- Colorado requirements for $150K and larger contracts
  - Three signatures minimum
    - One from State Oil and Gas Regulator
    - One from Contractor
    - One from State Government Controller
  - Executed (signed) project bonds
    - Performance
    - Labor and materials



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Solution: Document Signing Software

- Contract turnaround time
  - Uses email addresses and contract page views
  - Signing available on all devices, from any location
  - Contract routing timeframe decreased from 21-35 days to 0.5-10 days
- Wet ink contract routing expense
  - Staff time no longer dedicated to shipping docs overnight
  - Shipping fees of 2 x ~$12 reduced to ~$4 per DocuSign e-contract



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Benefit to Orphaned Well Program

- Contractors mob to field ~3 weeks sooner on projects governed by contracts
- Contract reissuance rate now below 5%
  - Most common error is replacing a specific Contractor signatory with another name
- Program completes more projects each year
  - Appropriations are more fully spent
- Additional efficiency if project bonds go to 100% digital signatures



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Bidding Orphaned Well Projects

- Colorado requires competitive low bidder selection for construction projects valued above $25K
- Oil and gas regulator is part of a large department of 1,520 year round employees and a $335M annual budget
- Busy central procurement staff at department level conduct bids for smaller programs



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Solution: Delegate Bidding Authority

- IIJA grants projected to double or triple Orphaned Well Program bid volume
- In early 2021, central procurement staff delivered training to finance staff within the oil and gas regulator
  - Approx 8-10 hours total training time over 3 months
- Delegated, trained staff close to the Orphaned Well Program now conduct bids and make awards valued at $300K-$900K each



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Benefit to Orphaned Well Projects

- Bid turnaround times
  - Technical and finance staff within the oil and gas regulator possess a common document system and oil and gas knowledge base
  - Project planning to bid award timeframe has shortened from 12-15 weeks to 10-12 weeks
  - Central procurement staff periodically review bid files and always approve contract with low bidder
- Contractors mob to field ~2 weeks sooner on larger projects that must be bid
- Program completes more projects each year



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COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

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Abandoned Well Plugging Contracting Practices

IOGCC Roundtable February 26, 2022

Ryan A. Hoffman, Director, Conservation Division

Kansas
Corporation Commission

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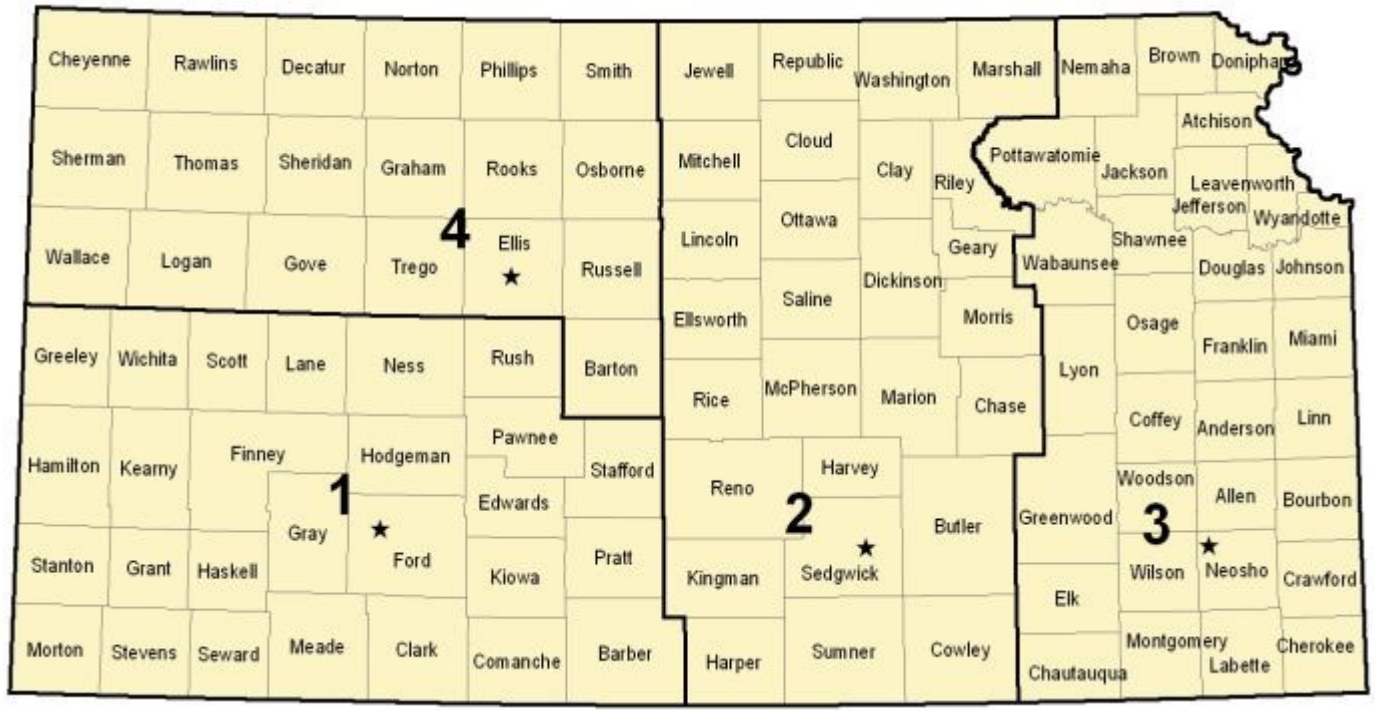
Past



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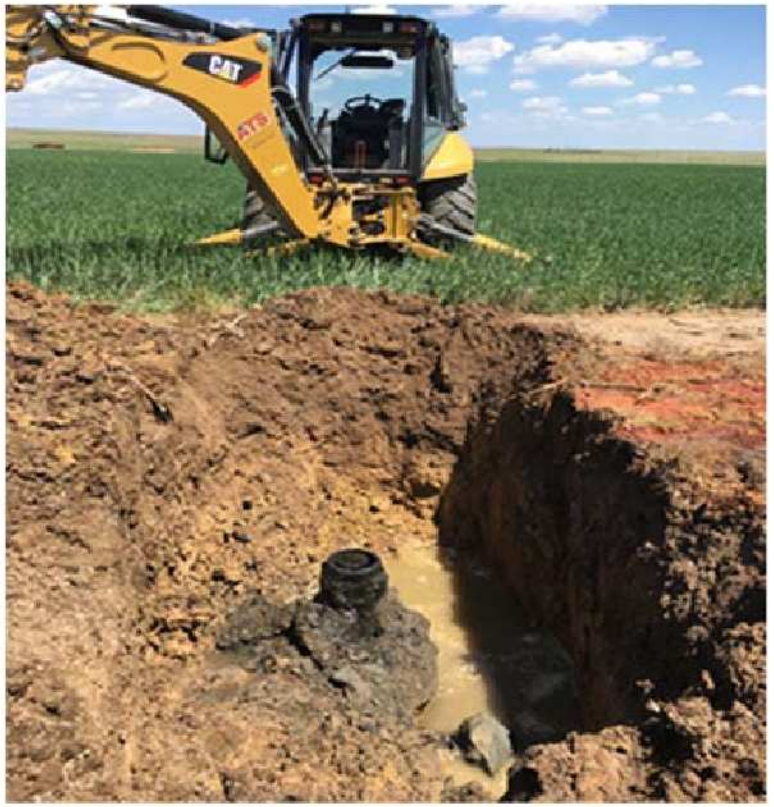
Past





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Present

- Fixed

Company Name		
DRILLING SERVICES		
Pulling Unit:	$	*per hour*
Mud Rotary Unit:	$	*per hour*
Pump and Power Swivel Unit:	$	*per hour*
Wash Down Pump:	$	*per hour*
WIRELINE SERVICES		
Perforate (Initial Run):	$	*per run*
Perforate (Subsequent Runs):	$	*per run*
Shooting Off (Initial Run):	$	*per run*
Shooting Off (Subsequent Runs)	$	*per run*
WATER HAULING SERVICES		
Vacuum Truck:	$	*per hour*
DIRT SERVICES		
Backhoe:	$	*per hour*
Dozer:	$	*per hour*
Winch Truck:	$	*per hour*

- Task Order
  - Mobilization Charge
  - Contract Supervision
  - Tubing Rental
  - Skid Steer, Mini Excavator, Track Hoe
  - Cement
  - Other Miscellaneous
- ***DISCOUNTS***

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Future

- Blast from the Past?
  - Firm contract prices are not flexible enough
  - More vendors on contract, but only a few will do the work
- Re-re-doing the Contract
  - Cancel all contracts
  - More meetings – focus on ability to discount
  - Plugging reimbursement regulations



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Thank You!

Kansas
Corporation Commission

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The Oklahoma Corporation Commission's (OCC)

Oil and Gas Conservation Division (OGCD)

165:10-11-6. Plugging and plugging back procedures

(a) **Scope.** This Section establishes minimum standards for plugging and plugging back wells.

The use of OCC State Funds requires the following:

- The last known operator is out of business with no valid surety or means to plug the well(s).
- Must have an order from an OCC Administrative Law Judge(ALJ).
- Order must be signed by the OCC Commissioners.

The new State Funds Solicitation was first implemented by the OGCD in early 2020. A new solicitation is being worked on currently to streamline the process even further. This has increased the ability of the Oklahoma Oil and Gas Conservation Division (OGCD) to:

- Have the ability to change the price awarded to plug the well(s) up or down depending on what is found in the wellbore.
- This has added more pluggers to the vendor's list.
- Staff sends the offer to the plugger who has 5 days to accept or decline the offer to plug a well(s).
- Once the offer is accepted plugger will receive an award letter and has 60 days to plug the well(s).
- Pluggers will email the District Managers when they have a rig(s) free and additional wells will be sent to the plugger to be accepted or declined and the wells again are required to be plugged in 60 days.
- This allows the pluggers to work for their regular customers (industry) with the ability to plug state wells also.
- Several pluggers have stated they are willing to dedicate a rig to state funds plugging only since this has been implemented.

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ATTACHMENT A

SOLICITATION NO. [0900000525]

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services, as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

The contract is awarded as a statewide contract for well-plugging services across the State of Oklahoma.

1. Contract Term and Renewal Options

The initial contract term, which begins on the effective date of the Contract, is one (1) year. There are four (4) options to renew the contract with renewal terms of one (1) year, as specified at the time of renewal.

2. Contract Obligations

In addition to obligations in other Contract documents, certain Supplier obligations are set forth below in Exhibit 1.

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Exhibit 1

A. The Supplier shall:

1. Maintain a daily work log showing all work performed and cost(s) encumbered for each day for the subject well(s).

2. Submit the following documents to the appropriate Oklahoma Corporation Commission ("Commission") district office within 30 days after the subject well(s) is/are plugged:

   a) Invoice.
   b) Daily work log.
   c) Form 1003 - Plugging Record.
   d) Photo of wellbore cut off 3' below ground level with ID plate welded on; and
   e) Photo of the hole backfilled.

3. Obtain all requisite approval(s) from the individuals listed in 3(a) below, for any and all costs that are in excess of the original estimated dollar amount to plug the subject well(s). Such approvals to increase the cost to plug the subject well(s) are intended to address unknown obstacles within the wellbore(s) or getting rigs and equipment to the well site(s) that were not foreseen at the time the estimate was given prior to beginning work on the subject wellbore(s). The estimated cost, as circumstances are encountered during plugging, must be approved by the following individuals:

   a) Commission District Manager

4. Utilize the specifications for plugging based upon the information contained on Commission Form 1002A. Form 1002A may be accessed here:

   http://www.occeweb.com/og/OGforms/form%201002A.XLS.

   In the case of unknown wells, the general information of the area should be included/provided

5. Perform on-site inspection(s) for each well to be plugged.

6. Comply with license requirements as set forth in **OAC 165:10-11-1**.

7. Be a registered vendor with OMES and be on the vendor list.

B. Process for Selection of well-plugging projects by the Commission Oil & Gas Division ("OGCD"):

- The OGCD will email an offer letter to the Supplier for the plugging of well(s). Once the first well(s) are accepted or declined the Supplier will contact the OGCD at the appropriate District Office email listed below-to let the OGCD District Office know

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that the Supplier is ready to receive the next offer letter(s) as long as the well(s) can be plugged in the allotted time frame in B. 7. of this section and it will continue until this contact has expired.

- District 1 OGBristowOffice@occ.ok.gov
- District 2 OGKingfisherOffice@occ.ok.gov
- District 3 OGDuncanOffice@occ.ok.gov
- District 4 OGAdaOffice@occ.ok.gov

- After the initial offer, the Suppliers must email the OGCD District Office in the areas the Supplier wishes to work when they have a rig available and can have the well(s) plugged within the allotted time frame in B. 7. of this section.

1. Plugging costs will be based upon the OGCD's cost estimate for such work based on a well by well basis as determined by each district.

2. Any Supplier selected for a well(s) plugging project will have five (5) business days from the date of receipt of the offer to either accept or reject the offer in writing by emailing the OGCD at the following email address: OGStateFunds@occ.ok.gov

3. If a qualified Supplier accepts the offer, the OGCD will issue an award letter to the Supplier via email. The Supplier can not start plugging until the award letter is received.

4. A Supplier receiving an award letter for any well(s) plugging project will have sixty (60) days after receipt of the award letter to plug the subject well(s) or have a rig on site with plugging operations underway, this also counts for multi-well packets. As long as the first well was started and there is continues work being performed the award will not expire. An additional 30 days may be approved by the appropriate District Manager for weather, well problems, or other unforeseen issues that are out of the Supplier's control. The Supplier must email the request for the 30-day extension to the appropriate District Manager before the original 60 days expire.
   Any costs in excess of the original estimate must follow Section A3 as set forth above. In the event that the subject well(s) is/are not plugged within the requisite sixtey (60) days, the subject well(s) will be offered to the next Supplier.

5. Any Supplier or affiliate of a Supplier with an OGCD enforcement cause filed with the Court Clerk ("Complaint") will not be eligible to accept any State Funds plugging offers until the cause has been closed.

6. Any Supplier that violates any of the performance terms in this Exhibit 1, including, but not limited to, incomplete work, fieldwork that does not meet minimum standards or does not meet outlined deadlines for submitting reports and claims, will be excluded from consideration for any future State Funds Plugging offers and payment may be adjusted, in the sole discretion of the OGCD, for insufficient work.

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Contracting Strategies to Enhance Competition, Efficiency, and Operational Flexibility

Patrick Shelton & Jesse Herrera
February 2022



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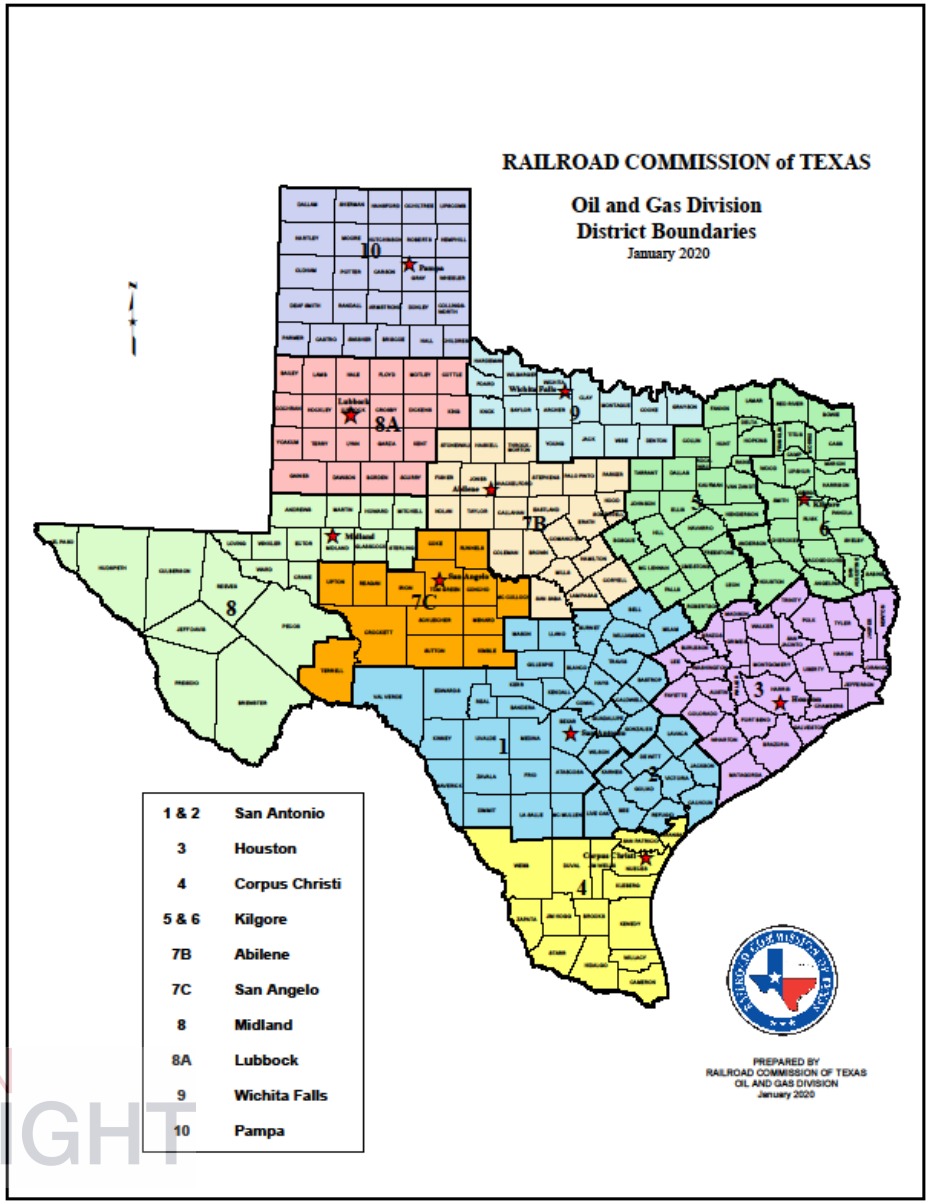
RRC Overview



Introduction to RRC

- The Railroad Commission is the oldest regulatory agency in Texas. Established in 1891, it is one of the oldest of its kind in the U.S.
- The RRC's Oil and Gas Division is organized into 12 Districts, with oversight from 10 District Offices.
- The RRC State Managed Well Plugging Program was established in 1984 and has successfully plugged 42,585 wells across the state.

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Pre 2016 Paradigm: Contracting

- Contracting Decentralized to RRC Districts:
  - Request for Proposal format
  - One District, One Contractor

- Challenges:
  - Nonexclusive Service Contracts. Contractors sometimes unavailable and engaged in other work
  - Regional Variations in labor and supply costs across RRC Districts
  - Decreased operational flexibility
  - Non-Standardized forms

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Post 2016 Paradigm: RFQ to Work Order

- RRC Centralized Procurement moves to Request for Qualifications process (RFQ) with work orders:
  - Solicitation process administered by Procurement and Contracts Division
  - After Prequalification, District staff issues Work Orders to contractors
- Key Advantages:
  - Multiple awards per District offers enhanced flexibility.
  - Greater opportunity for small Texas businesses
  - Decreased administrative burden on District staff
  - Potential for competitively bid work orders
  - Increased efficiency

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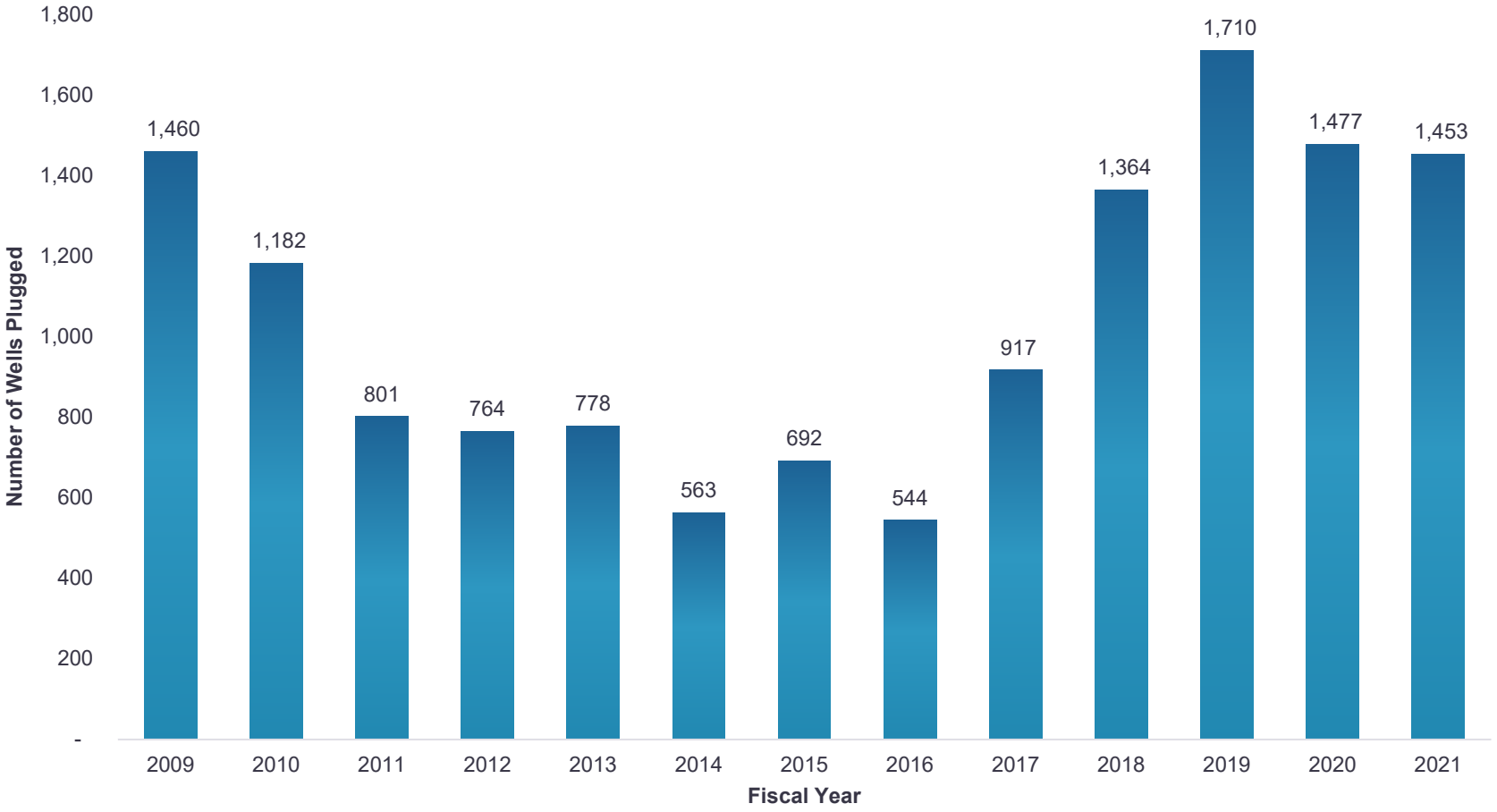
Wells Plugged With State Managed Funds FY 2009 Thru 2021



NOTE: Increased number of wells plugged starting in 2016. Corresponds with the centralization of solicitation to the Procurement and Contracts Division.

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Soliciting Well Plugging Service Providers

- Procurement Method: Request for Qualifications (RFQ)
  - Utilizing the RFQ solicitation process allows RRC to attain the best qualified contractor that represents the lowest risk to successful project completion
    - Establish and Signify Requirements:
      - Qualifications
      - Past Performance
      - Price/Cost
    - Lowest Price is Not Always Best Value

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The Best Value Process (1 of 2)

- Solicitation Requirements Risk:
  - Recognize uncertainty and risk, allocate performance/technical risks and cost
    - Risk is greatly increased if services/requirements are poorly defined
    - Identify minimum requirements

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The Best Value Process (2 of 2)

- Texas requires state agencies to publicize bidding opportunities on its Electronic State Business Daily, a website administered by the Comptroller of Public Accounts for posting state bid opportunities. This process:
  - Contemplates giving potential vendors a reasonable opportunity to compete
  - Requires that all vendors be placed on a level playing field
  - Maximizes competition
  - Broadens Contractor participation in meeting State requirements
  - Assists small businesses and Historically Underutilized Business (Minority/Veteran Owned) in obtaining contracts and subcontracts

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Case Study: Padre Island Project (1 of 2)



- **Federally Funded project in environmentally sensitive Padre Island National Seashore**
- **Total Project Cost $882,775**



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Case Study: Padre Island Project (2 of 2)

- RFP Solicitation failure in 2019:
  - No responses received
- Competitive Work Order Process with RFQ Prequalified Contractors 2020:
  - Estimated budget $1.5MM
  - Multiple bids received
  - Turnkey price per well specified in work order
  - Results with effective District staff management:
    - All eleven (11) wells plugged for a total cost of $882,775
    - Cost savings of $630,791 through competitively bid work orders
    - RRC received IOGCC's 2021 Chair's Stewardship Award for Environmental Partnership

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Questions?

- Contact:
  - Patrick Shelton, Attorney
    - patrick.shelton@rrc.texas.gov
    - 512-463-5572
  - Jesse Herrera, CPPB, CTCM, CTCD
    Contract Administration Manager
    - jesse.herrera@rrc.texas.gov
    - 512-463-6736

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Thank you for joining us!

If you have any questions, you can contact

CRO Chair

Dave Hardie

david.hardie@aer.ca

or

CRO Liaison

Amy Childers

Amy.childers@iogcc.state.ok.us

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INTERSTATE Oil & Gas COMPACT COMMISSION

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Monday, April 18, 2022 6:45 PM EDT
To: Moander, Christopher <cmoander@nmag.gov>
Subject: FW: [EXTERNAL] Entry of Appearance by New Mexico Oil & Gas Association in Case No. 22719
Attachment(s): "NMOGA - EOA Case 22719 OCD AMEND RULES 19.15.2 AND 19.15.7.pdf"

From: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Sent: Monday, April 18, 2022 4:44 PM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Subject: Fw: [EXTERNAL] Entry of Appearance by New Mexico Oil & Gas Association in Case No. 22719

From: Carla S. Garcia <CSGarcia@hollandhart.com>
Sent: Monday, April 18, 2022 3:57 PM
To: Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>; Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Cc: Michael Feldewert <MFeldewert@hollandhart.com>; Adam Rankin <AGRankin@hollandhart.com>
Subject: [EXTERNAL] Entry of Appearance by New Mexico Oil & Gas Association in Case No. 22719

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good Afternoon,

Please file into the record the attached Entry of Appearance on behalf of New Mexico Oil & Gas Association in regards to the Oil Conservation Division's Application to Amend Rules 19.15.2 and 19.15.7 NMAC in Case No. 22719.

Thank you,

Carla Garcia
Legal Assistant, Holland & Hart LLP
110 N. Guadalupe St., Suite 1, Santa Fe, NM 87501
T 505.988.4421 F 505.983.6043
HOLLAND&HART

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMISSION

APPLICATION OF OIL CONSERVATION DIVISION TO AMEND RULES 19.15.2 AND 19.15.7 NMAC

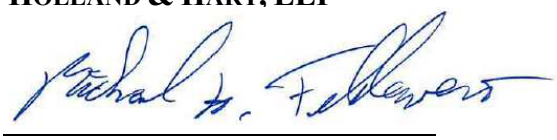
CASE NO. 22719

ENTRY OF APPEARANCE

COMES NOW, Michael H. Feldewert and Adam G. Rankin of Holland & Hart, LLP, and hereby enter their appearances on behalf of New Mexico Oil & Gas Association.

Respectfully submitted,

HOLLAND & HART, LLP



Michael H. Feldewert
Adam G. Rankin
Post Office Box 2208
Santa Fe, New Mexico 87504
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FAX: (505) 983-6043 Facsimile
mfeldewert@hollandhart.com
agrankin@hollandhart.com

ATTORNEYS FOR NEW MEXICO OIL & GAS ASSOCIATION

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CERTIFICATE OF SERVICE

I hereby certify that on April 18, 2022, I served a copy of the foregoing document to the following counsel of record via Electronic Mail to:

Jesse Tremaine
New Mexico Energy Minerals and Natural
Resources Department
1220 S. St. Francis Drive
Santa Fe, New Mexico 87505
(505) 476-3463
jesse.tremaine@state.nm.us

Attorney for New Mexico Oil Conservation Division



Michael H. Feldewert

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 5:23 PM EDT
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>; Kerster, Courtney, GOV <Courtney.Kerster@state.nm.us>
CC: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>
Subject: FW: [EXTERNAL] FW: Final Initial State Grant Guidance
Attachment(s): "state-initial-grant-guidance-4-11-22.pdf"

Hot off the presses, haven't reviewed yet.

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, April 12, 2022 3:19 PM
Subject: [EXTERNAL] FW: Final Initial State Grant Guidance

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Attached is DOI's final initial grant guidance. We are reviewing the document to identify the changes that were made and will let you know what we find. We will also visit with Bill Lodder tomorrow about scheduling training on the forms.

More to follow . . . .

From: Lodder, William B <William_Lodder@ios.doi.gov>
Sent: Tuesday, April 12, 2022 3:46 PM
To: Amy Childers <amy.childers@iogcc.state.ok.us>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Cc: Nottingham, Gregory P <gregory_nottingham@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>; Fleming, Laura A <laura_fleming@ios.doi.gov>
Subject: Final Initial State Grant Guidance

Hi Lori/Amy,

We have finalized the initial state grant guidance. I've attached a copy. We have a website up that we plan to post the methane guidance and data template. The website is: https://www.doi.gov/oepc/legacy-pollution-remediation-and-reclamation. I'm assuming you will forward to your State members. Let me know if this is inaccurate. We will also email the State reps but I suspect you have a better list of email addresses.

If you have time tomorrow, I would like to discuss any need for training. I suspect States may want our grant folks to walk through how to fill out the forms. I will need to set up a separate training if States want GrantSolutions training. Perhaps tomorrow you can confirm if any of this is needed. Thanks for all of your support as we worked through creating the initial grant guidance.

Bill
William B. Lodder Jr., Team Leader, P.G.
Environmental Cleanup and Liability Management Team
Office of Environmental Policy and Compliance (OEPC)
U.S. Department of the Interior
(w) 202-208-6128
(c) 202-731-3064

For Department/Bureau Staff:
Contaminated Sites Initiative (CSI) Portal
OEPC SharePoint

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UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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requirements in the subsequent orphaned well grants, so States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to activities listed under Sec. 40601(c)(2)(A), i through viii, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Community" – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.[4]

"Date of receipt of funds," as identified in Sec. 40601(c)(3)(A)(i)(II)(cc), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving State. For the large-scale Initial grant, the effective date begins the 90-day period within which the State must "use" no less than 90% of funds as certified in the grant application. To "use … funding" under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex
[4] Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021

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"Disadvantaged Community" – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.[5]

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's onshore plugging and reclamation standards and DOI approval prior to the start of operations.

[5]Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021. See Climate and Economic Justice Screening Tool at: Explore the tool - Climate & Economic Justice Screening Tool (geoplatform.gov)

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[6]

"Orphaned Well" – The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, the operator of which is unable to plug the well and to remediate and reclaim the well site, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Pre-Award Costs" – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

"Tribal and Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" – For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[7]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:
   i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
   ii. identify and characterize undocumented orphaned wells on State and private land;
   iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

[6] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[7] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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iv. make information regarding the use of funds received available on a public website;
v. measure and track -
I. emissions of methane and other gases associated with orphaned wells; and
II. contamination of groundwater or surface water associated with orphaned wells;
vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities; and
ix. administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a

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year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the State to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
(d) OMB Form 4040-0010 Key Contacts Form

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ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many will be further refined in coordination with the States and may be required for subsequent grants. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities;

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(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and

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(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications* (digital signatures are acceptable)

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see Attachment A) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see Attachment B) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. <u>Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution</u>

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or

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estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the OEPC Legacy Pollution Program website,[8] to measure and report methane emissions from orphaned wells. States may also use a third-party methodology, such as the American Carbon Registry's draft methodology.[9] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,

[8] https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution
[9] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical – preferably before State grant applications are submitted – States should provide a primary contact for coordination between Tribal and Federal land management agencies to **orphanedwells@ios.doi.gov**. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to **orphanedwells@ios.doi.gov**.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the Federal Land Manager (e.g., cooperative agreement). Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of

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period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the corresponding quarterly Financial and Performance Report described in VII.C, a separate quarterly Financial and Performance Report need not be submitted for that period.

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

   (a) Well location information (e.g., latitude/longitude);
   (b) Well type (e.g. orphaned production or disposal well);
   (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
   (d) The population living within a half mile radius of each well being plugged;
   (e) Pre-plugging methane emissions (if available);
   (f) Post-plugging methane emissions;
   (g) Surface water contamination identified;
   (h) Surface water contamination remediated;
   (i) Groundwater contamination identified;
   (j) Groundwater contamination remediated;
   (k) Acreage impacted by well and infrastructure (site footprint);
   (l) Revegetation performance standard monitoring start date;
   (m) Revegetation performance standard attainment date (project complete);
   (n) Actual total cost per well of plugging and surface reclamation; and
   (o) If the project is located in a community of color, low-income community, or Tribal or Indigenous community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

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of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template available at the OEPC Legacy Pollution Program website. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior may post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of $2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of $2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

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Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.

For additional guidance on how to comply with DBA provisions and clauses, see https:/www.dol.gov/agencies/whd/government-contracts/construction and https:/www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction.

IX. ADDITIONAL TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: Standard Award Terms and Conditions.

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.

C. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent allowable under State law, Federal awarding agency access to project sites.

D. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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Attachment A OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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Attachment B OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Attachment C

Annex to the Initial State Grants Guidance

Overview: The $4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

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(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or

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award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

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the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 5:38 PM EDT
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: FW: [EXTERNAL] FW: Final Initial State Grant Guidance
Attachment(s): "state-initial-grant-guidance-4-11-22.pdf"

Jim- could you please do a quick review of the changes from original to this and send me a list of the high level changes? I don't care where they added a comma, just bigger changes that have an impact. Any chance I can get that by end of day tomorrow or Thursday?

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 3:25 PM
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>
Cc: Smith, Cory, EMNRD <Cory.Smith@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] FW: Final Initial State Grant Guidance

Hot off presses

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, April 12, 2022 3:19 PM
Subject: [EXTERNAL] FW: Final Initial State Grant Guidance

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Attached is DOI's final initial grant guidance. We are reviewing the document to identify the changes that were made and will let you know what we find. We will also visit with Bill Lodder tomorrow about scheduling training on the forms.

More to follow . . . .

From: Lodder, William B <William_Lodder@ios.doi.gov>
Sent: Tuesday, April 12, 2022 3:46 PM
To: Amy Childers <amy.childers@iogcc.state.ok.us>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Cc: Nottingham, Gregory P <gregory_nottingham@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>; Fleming, Laura A <laura_fleming@ios.doi.gov>
Subject: Final Initial State Grant Guidance

Hi Lori/Amy,

We have finalized the initial state grant guidance. I've attached a copy. We have a website up that we plan to post the methane guidance and data template. The website is: https://www.doi.gov/oepc/legacy-pollution-remediation-and-reclamation. I'm assuming you will forward to your State members. Let me know if this is inaccurate. We will also email the State reps but I suspect you have a better list of email addresses.

If you have time tomorrow, I would like to discuss any need for training. I suspect States may want our grant folks to walk through how to fill out the forms. I will need to set up a separate training if States want GrantSolutions training. Perhaps tomorrow you can confirm if any of this is needed. Thanks for all of your support as we worked through creating the initial grant guidance.

Bill
William B. Lodder Jr., Team Leader, P.G.
Environmental Cleanup and Liability Management Team
Office of Environmental Policy and Compliance (OEPC)
U.S. Department of the Interior
(w) 202-208-6128
(c) 202-731-3064

For Department/Bureau Staff:
Contaminated Sites Initiative (CSI) Portal
OEPC SharePoint

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UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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requirements in the subsequent orphaned well grants, so States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to activities listed under Sec. 40601(c)(2)(A), i through viii, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Community" – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.[4]

"Date of receipt of funds," as identified in Sec. 40601(c)(3)(A)(i)(II)(cc), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving State. For the large-scale Initial grant, the effective date begins the 90-day period within which the State must "use" no less than 90% of funds as certified in the grant application. To "use … funding" under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex
[4] Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021

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"Disadvantaged Community" – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.[5]

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's onshore plugging and reclamation standards and DOI approval prior to the start of operations.

[5]Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021. See Climate and Economic Justice Screening Tool at: Explore the tool - Climate & Economic Justice Screening Tool (geoplatform.gov)

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[6]

"Orphaned Well" – The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, the operator of which is unable to plug the well and to remediate and reclaim the well site, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Pre-Award Costs" – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

"Tribal and Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" – For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[7]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:
   i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
   ii. identify and characterize undocumented orphaned wells on State and private land;
   iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

[6] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[7] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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iv. make information regarding the use of funds received available on a public website;
v. measure and track -
I. emissions of methane and other gases associated with orphaned wells; and
II. contamination of groundwater or surface water associated with orphaned wells;
vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities; and
ix. administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a

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year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the State to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
(d) OMB Form 4040-0010 Key Contacts Form

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ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many will be further refined in coordination with the States and may be required for subsequent grants. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities;

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(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and

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(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications* (digital signatures are acceptable)

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see Attachment A) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see Attachment B) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. <u>Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution</u>

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or

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estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the OEPC Legacy Pollution Program website,[8] to measure and report methane emissions from orphaned wells. States may also use a third-party methodology, such as the American Carbon Registry's draft methodology.[9] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,

[8] https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution
[9] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical – preferably before State grant applications are submitted – States should provide a primary contact for coordination between Tribal and Federal land management agencies to **orphanedwells@ios.doi.gov**. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to **orphanedwells@ios.doi.gov**.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the Federal Land Manager (e.g., cooperative agreement). Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of

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period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the corresponding quarterly Financial and Performance Report described in VII.C, a separate quarterly Financial and Performance Report need not be submitted for that period.

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

   (a) Well location information (e.g., latitude/longitude);
   (b) Well type (e.g. orphaned production or disposal well);
   (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
   (d) The population living within a half mile radius of each well being plugged;
   (e) Pre-plugging methane emissions (if available);
   (f) Post-plugging methane emissions;
   (g) Surface water contamination identified;
   (h) Surface water contamination remediated;
   (i) Groundwater contamination identified;
   (j) Groundwater contamination remediated;
   (k) Acreage impacted by well and infrastructure (site footprint);
   (l) Revegetation performance standard monitoring start date;
   (m) Revegetation performance standard attainment date (project complete);
   (n) Actual total cost per well of plugging and surface reclamation; and
   (o) If the project is located in a community of color, low-income community, or Tribal or Indigenous community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

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of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template available at the OEPC Legacy Pollution Program website. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior may post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of $2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of $2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

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Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.

For additional guidance on how to comply with DBA provisions and clauses, see https:/www.dol.gov/agencies/whd/government-contracts/construction and https:/www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction.

IX. ADDITIONAL TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: Standard Award Terms and Conditions.

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.

C. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent allowable under State law, Federal awarding agency access to project sites.

D. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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Attachment A OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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Attachment B OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Attachment C

Annex to the Initial State Grants Guidance

Overview: The $4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

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(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or

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award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

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the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, January 18, 2022 7:18 PM EST
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: FW: [EXTERNAL] FW: Signed Orphan Well MOU
Attachment(s): "Orphan Well MOU 01.14.2022 - Signed.pdf","Orphan Well MOU 01.14.2022 - Attachment.pdf"

FYI

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, January 18, 2022 10:39 AM
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: [EXTERNAL] FW: Signed Orphan Well MOU

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

IOGCC Official Representatives, Associate Official Representatives, and Oil and Gas Directors,

Attached for your records is the signed Memorandum of Understanding (MOU). The Department of Interior (DOI) addressed our comments and Governor Stitt signed the MOU on behalf of IOGCC.

Please let me know if you have any questions.

Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

From: Feldgus, Steven H <steve_feldgus@ios.doi.gov>
Sent: Tuesday, January 18, 2022 7:21 AM
To: Golden, Robert <robert.golden@hq.doe.gov>; Wilcox, Jennifer <jennifer.wilcox@hq.doe.gov>; Harrell, Meryl - OSEC, Washington, DC <Meryl.Harrell@usda.gov>; paul.johnson2 <paul.johnson2@usda.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Alison Cassady (cassady.alison@epa.gov) <cassady.alison@epa.gov>; hoover.zealan@epa.gov; linda.delgado@usda.gov; Dawe, Christine -FS <christine.dawe@usda.gov>; Talati, Shuchi <shuchi.talati@hq.doe.gov>
Cc: Stachelberg, Winnie <winnie_stachelberg@ios.doi.gov>; Greenberger, Sarah D <Sarah_Greenberger@ios.doi.gov>; Culver, Nada L <nculver@blm.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>; Murphy, Ted A <t75murph@blm.gov>
Subject: Signed MOU

Thank you all VERY much for reviewing this repeatedly and helping get it signed on such a short timeframe – we met the legislative deadline! Unfortunately, by the time we got the 508-compliant version it seemed a bit too late on a Friday before a 3-day-weekend for a release, so the release is going out at 10am this morning.

Thanks again!

--Steve

Steve Feldgus, Ph.D.
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior
Steve_feldgus@ios.doi.gov
He/him/his

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Attachment: Points of Contact

Each Party hereby designates the following contacts as the primary points of contact, which contacts may be changed at the participating Party's discretion upon notice to each of the other Parties.

DOI, OEPC: Stephen Tryon (stephen_tryon@ios.doi.gov)

DOI, BLM: Ted Murphy (t75murph@blm.gov)

DOI, BIA: Albert Bond (dale.bond@bia.gov)

DOI, FWS: Cynthia Martinez (cynthia_martinez@fws.gov)

DOI, NPS: Stephanie Gaswirth (stephanie_gaswirth@nps.gov)

DOI, BSEE: Staci King (staci.king@bsee.gov)

DOI, Reclamation: Bobby McGough (bmcgough@usbr.gov)

DOI, USGS: Sarah Ryker (sryker@usgs.gov)

USDA, Forest Service: Paul Johnson (paul.johnson2@usda.gov)

DOE:

EPA: Melissa Weitz (Weitz.Melissa@epa.gov)

IOGCC: Lori Wrotenbery (lwrotenbery@iogcc.state.ok.us)

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Memorandum of Understanding
Between
The Department of the Interior;
And
The Department of Agriculture;
And
The Department of Energy;
And
The Environmental Protection Agency;
And
The Interstate Oil and Gas Compact Commission
on
Orphaned Well Site Plugging, Remediation, and Restoration

I. Purpose

This Memorandum of Understanding (MOU) establishes a framework within which the Parties intend to work together to implement the Orphaned Well Site Plugging, Remediation, and Restoration program (Orphaned Well Program) established by Section 40601 of the Infrastructure Investment and Jobs Act (IIJA) to create good-paying jobs and address the environmental harms caused by orphaned wells.

II. Background

Orphaned wells, either unplugged or improperly plugged, can leak methane and other harmful air pollutants into the atmosphere, leach contaminants into surrounding lands and waters, create safety hazards on the ground, and prevent lands from being used for recreation or other productive purposes. Addressing the environmental harms caused by orphaned wells requires the cooperation and collaboration of numerous agencies across the whole of government.

The IIJA, a once-in-a-generation investment in our Nation's infrastructure and competitiveness, was signed into law on November 15, 2021. Among its many goals are tackling the climate crisis, advancing environmental justice, and investing in communities that have too often been left behind. To help achieve these goals, the IIJA established the Orphaned Well Program, which includes a Federal program for addressing orphaned wells on Federal Land and a grant program for States and Tribes to establish or grow and manage their own orphaned well plugging, remediation, and restoration programs.

III. Parties

The Department of the Interior (DOI); As the United States' largest Federal Land Manager, DOI manages approximately 420 million acres of federal lands, nearly 55 million acres of tribal lands, and about 2.5 billion acres of the Outer Continental Shelf. The Bureau of Land Management, U.S. Fish & Wildlife Service, National Park Service, and Bureau of Reclamation all manage

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lands that contain orphaned wells, and the Bureau of Safety and Environmental Enforcement is responsible for orphaned wells and infrastructure on the Outer Continental Shelf. DOI manages those lands to sustain their health, diversity, and productivity for the use and enjoyment of present and future generations. The United States also has a trust responsibility to Indian Tribes. In most instances, the Bureau of Indian Affairs and other DOI bureaus are responsible for assisting Tribes in the management, development, and protection of Indian land and natural resources.

The U.S. Department of Agriculture (USDA); The USDA provides leadership on food, agriculture, and natural resources related issues based on public policy, the best available science and effective management. As the managers of the nation's roughly 193 million acres of national forest system, the United States Forest Service's mission is to sustain the health, diversity, and productivity of the nation's forests and grasslands. The plugging and remediation of orphan well sites on National Forest System lands addresses agency priorities to remediate and reduce legacy pollution, protect watersheds by removing potential sources of contamination of clean water, reduce greenhouse gas emissions, promote inclusion by providing safe access for all recreationalists, and potentially provide jobs and other economic benefits to underserved communities.

The Department of Energy (DOE); DOE's mission is to ensure America's safety and security by addressing its energy and environmental challenges through transformative science and technology. The Department catalyzes the transformative growth of basic and applied scientific research, the discovery and development of new clean energy technologies, and prioritizes scientific innovation as a cornerstone of U.S. economic prosperity. DOE also plays a leadership role in facilitating an equitable clean energy transition, including supporting the potential for repurposing existing fossil assets for the new clean energy economy. Further, DOE received funds under the IIJA to assist, in particular, in identifying and characterizing undocumented orphan wells and in detecting and measuring methane releases from such wells.

The Environmental Protection Agency (EPA); The EPA's mission is to protect human health and the environment. It leads national efforts to reduce environmental risks based on the best available scientific information; ensure environmental stewardship is integral to US policies concerning natural resources, human health, and energy; and that contaminated lands and toxic sites are cleaned up. EPA collects and reports greenhouse gas and other emissions data.

The Interstate Oil and Gas Compact Commission (IOGCC); The IOGCC is a multi-state government entity that is passionate about advancing the quality of life for all Americans by ensuring the responsible development of our nation's oil and natural gas resources while protecting health, safety, and the environment. The IOGCC provides its members with a clear and unified voice on issues surrounding these resources, assists states in balancing a multitude of interests through sound regulatory practices, and offers a highly effective forum for sharing information and viewpoints.

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IV. Authorities

The Energy Policy Act of 2005, 42 U.S.C.A. § 15907, as amended by the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, Title VI – Methane Reduction Infrastructure (Nov. 15, 2021).

V. Definitions

The terms Federal land, Idled Well, Indian Tribe, Operator, Orphaned Well, and Tribal land are used here consistent with the definitions in 42 U.S.C.A. § 15907(a) and are defined below.

Environmental reviews refer to those reviews, analyses, and consultations conducted to comply with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), National Historic Preservation Act (NHPA), and other applicable environmental statutes.

Federal land means land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

Federal Land Managers refers to the Bureau of Land Management (BLM), United States Fish and Wildlife Service (FWS), National Park Service (NPS), Bureau of Indian Affairs (BIA), Bureau of Safety and Environmental Enforcement (BSEE), Bureau of Reclamation (Reclamation), and United States Forest Service (USFS).

Idled well means a well that has been nonoperational for not fewer than 4 years and for which there is no anticipated beneficial future use.

Indian Tribe has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 5304.

Operator, with respect to an oil or gas operation, means any entity, including a lessee or operating rights owner, that has provided to a relevant authority a written statement that the entity is responsible for the oil or gas operation, or any portion of the operation.

Orphaned well with respect to Federal land or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring; and

- for which no operator can be located;
- the operator of which is unable to plug the well and to remediate and reclaim the well site; or
- that is within the National Petroleum Reserve–Alaska.

Orphaned Well with respect to State or private land, has the meaning given the term by the applicable State; or if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

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Tribal Land, for the purposes of the Orphaned Well Program and this MOU, means any land or interest in land owned by an Indian Tribe, the title to which is held in trust by the United States, or which is subject to a restriction against alienation under Federal law.

VI. Framework and Responsibilities

To achieve the goals of the Orphaned Well Program, the Parties resolve to leverage their capabilities, resources, and expertise and provide leadership and commitment to foster a culture of collaboration and partnership internally and externally. Efficient and successful implementation of the Orphaned Well Program requires establishment of workgroups to coordinate funding, reporting, and sharing of expertise. To the extent authorized by law and consistent with applicable regulations, agency management objectives, and available funding, the Parties agree to participate in and support the following organizational framework and responsibilities:

A. Federal Program Executive Group (EG)

The Orphaned Well Program establishes a Federal program for the plugging, remediating, and reclaiming of orphaned wells and associated facilities on Federal Land. An Executive Group (EG) is hereby established to provide executive level oversight and ensure the successful implementation of the Federal program. The Deputy Secretary of DOI and Deputy Secretary of USDA will serve as co-chairs. At the discretion of the co-chairs, the EG may draw on separate Assistant Secretary, Undersecretary, or bureau/office/agency representation as appropriate.

1. Membership in the EG consists of:
    a. DOI, Assistant Secretary – Land and Minerals Management;
    b. DOI, Assistant Secretary – Fish, Wildlife and Parks;
    c. DOI, Assistant Secretary – Indian Affairs;
    d. DOI, Assistant Secretary – Water and Science;
    e. DOI, Assistant Secretary – Policy, Management, and Budget; and
    f. USDA, Undersecretary for Natural Resources and Environment.
    g. BLM, Director – *non-voting member*

2. Roles and Responsibilities. The EG will:
    a. meet as necessary, but no less frequently than bi-annually;
    b. determine the amount of funding provided to each eligible bureau/office/or agency, emphasizing geographic and agency equity toward achieving the goals of the Orphaned Well Program; and
    c. oversee and approve the annual reports to Congress describing the Federal program and grants awarded under the Orphaned Well Program. The reports will include:
        i) an updated inventory of wells located on Federal Land, Tribal land, and State and private land that are orphaned wells or at risk of becoming orphaned wells;
        ii) an estimate of the quantities of methane and other gases emitted from orphaned wells, and emissions reduced as a

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result of plugging, remediating, and reclaiming orphaned wells;

iii) the numbers of jobs created and saved through the plugging, remediation, and reclamation of orphaned wells; and

iv) the acreage of habitat restored using grants awarded to plug, remediate, and reclaim orphaned wells and to remediate or reclaim adjacent land, together with a description of the purposes for which that land is likely to be used in the future.

B. Federal Program Technical Working Group (TWG)

A Technical Working Group (TWG) is established to provide input and recommendations to the EG, to coordinate funding and overarching program objectives, and to share best practices and technical expertise for implementing the Federal Program.

1. Membership.
   a. The TWG will be led by BLM, and its membership will consist of a representative from each of the other Federal Land Managers.
   b. Representatives of the DOI - Office of Environmental Policy and Compliance (OEPC), U.S. Geological Survey (USGS), the Bureau of Indian Affairs – Indian Energy Service Center, EPA, and DOE are included as consulting members.
   c. Other agencies may also be included, as deemed appropriate by BLM as the group lead.

2. Roles and Responsibilities. The TWG will:
   a. meet as often as necessary, but no less frequently than monthly for the first six months after this MOU is signed, and no less frequently than quarterly thereafter;
   b. develop a method or methods to identify, characterize, and inventory orphaned wells and associated pipelines, facilities, and infrastructure;
   c. develop a method to prioritize and rank orphaned wells for plugging, remediating, and reclaiming based on public health and safety, ongoing and potential environmental harm, emissions of methane and other harmful air pollutants, proximity to disadvantaged or underserved communities, potential for increased risk due to climate change, and other subsurface impacts or land use priorities, including consideration of state or Tribal plans or priorities for orphaned wells on state, private, or Tribal lands;
   d. recommend distribution of funding on an annual basis to the EG, in accordance with priorities established to plug, remediate, and reclaim wells, well pads, and facilities, including remediating soil and restoring native species habitat as well as land adjacent to orphaned wells;
   e. develop procedures and share best practices to prioritize and accelerate applicable environmental reviews;

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f. share innovative approaches, best practices, and technical expertise to address the environmental harms caused by orphaned wells;
g. establish procedures and a process for monitoring use of funds in accordance with applicable regulations, and provide public accounting of the costs;
h. establish procedures and a process to ensure any financial assurances are used, potentially responsible parties are identified, and efforts are made to obtain reimbursement for expenditures;
i. develop means to measure and track the impacts of orphaned well plugging, reclamation, and remediation on:
    i) emissions of methane and other harmful air pollutants; and
    ii) contamination of groundwater or surface water;
j. identify and make recommendations for addressing any disproportionate negative impacts of orphaned wells and associated facilities on disadvantaged and underserved communities as identified in Executive Order 14008 and 13985;
k. identify opportunities to coordinate with states and Tribes on the plugging, reclamation, and remediation of orphaned wells and associated facilities to improve efficiencies, stimulate job creation, reduce methane emissions, leverage program funding, and minimize per-well costs;
l. identify and recommend areas for federal and non-federal research that would most effectively further the goals of the Orphaned Well Program;
m. engage with stakeholders and the private sector on a regular basis to obtain input on the operation of the program and explore opportunities to leverage program funding;
n. prepare the annual reports for review and approval by the EG;
o. work cooperatively with affected Indian Tribes and each State within which Federal Land is located;
p. identify tools and develop practices for tracking the inventory of wells located on Federal or Tribal land that are orphaned or at risk for becoming orphaned;
q. create additional subgroups as necessary to accomplish the goals of the IIJA and this MOU; and
r. conduct consultations with the IOGCC on the Federal Program, in accordance with Section 349(b)(4)(B) of the Energy Policy Act of 2005, as amended. As part of the consultation process, the TWG will work with the IOGCC to develop reporting templates and best practices to facilitate fact-gathering and reporting throughout the entirety of the Orphaned Well Program.

C. State Grant Program

In addition to the Federal Program, the Orphaned Well Program also establishes Federal funding in the form of grants for States to grow and manage their own orphan well plugging, remediation, and restoration programs (State Grant Program). The OEPC manages the

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implementation of the State Grant Program on behalf of DOI. The State Grant Program consists of Initial, Formula, and Performance grants.

1. In determining the eligibility of a State to receive Formula or Performance grants, OEPC will consult with the EPA, DOE, and IOGCC.

2. OEPC, EPA, DOE, and IOGCC agree to meet as necessary, but no less frequently than annually, for the purpose of determining State grant eligibility.

3. OEPC will compile the applicable grant information for the annual reports required in the IIJA and submit the information to the TWG for compilation and submission to the EG.

4. In managing the State Grant Program, OEPC will regularly consult with BLM and the USFS on the operation of the program, including coordinating to the maximum extent feasible with activities in the Federal Program and Tribal Grant Program.

D. Tribal Grant Program

The IIJA also establishes a Tribal Grant Program. The OEPC, in consultation with the BIA and BLM, manages the implementation of the Tribal Grant Program on behalf of DOI.

1. In determining the eligibility of a Tribe to receive a grant, OEPC will consult with the BIA and BLM and consider:

   a. the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application for a grant; and
   b. the estimated number of orphaned wells on the Tribal land of the Indian Tribe.

2. On request of a Tribe, DOI may enter into contracts to plug, remediate, and restore orphaned wells and associated disturbances on the Tribe's land (In-Lieu Tribal Grant Program).

3. OEPC will compile the applicable grant information for the annual reports and submit the information to the TWG for compilation and submission to the EG.

4. The BLM, OEPC, and BIA, and other agencies as necessary, will attempt to coordinate plugging and reclamation activities on Tribal land to the maximum extent possible with similar activities on Federal, state, and private land.

VII. Contacts

This MOU includes an attachment that supports enhanced coordination among the Agencies. This attachment, entitled "Points of Contact," lists respective points of contact for implementation of this MOU. Any updates to the attachment will be entitled, "Updated Points of

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Contact," with version date. Such updates to the attachment will not constitute material changes to this MOU and, as such, will not require that the MOU itself be updated. Instead, the "Updated Points of Contact" will become the operative attachment.

VIII. General

Nothing in this MOU is intended, nor may be construed, to limit or in any way affect the legal obligations and powers of the Parties. The Parties will comply with all applicable laws, and to the extent this MOU conflicts with applicable law, the applicable law controls.

This MOU does not, nor is it intended to, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States or any of the Parties, their Departments, agencies, or entities, their officers, employees, or agents, or any other person.

A. Effective Date and Period of Performance

This MOU is effective upon the date of the last signature of the Parties. It shall remain in effect for a period of 10 years unless amended or canceled by any Party.

B. Modifications, Interpretations and Terminations

This MOU may be extended, amended, or modified at any time by mutual consent of all the Parties. Any extensions, amendments, modifications, or corrections of this MOU will be in writing, at least 90 days prior to implementation of the requested change, and will become effective upon the date of the last signature of the Parties.

Any Party may terminate their participation in this MOU at will. Written notice of termination to all the other Parties will be provided no less than 90 days prior to termination. Such an action is within the sole discretion of the notifying Party.

C. Subsequent Implementing Documents

Subsequent to the effective date of this MOU, additional agreements, charters, or workplans may be prepared for the purposes of outlining more specific relationships and responsibilities. Any such agreements will be executed in writing separately and will reference and incorporate the terms of this MOU to the extent necessary or appropriate.

D. Dispute Resolution

Any disputes relating to this MOU will, subject to any applicable law, executive order, directive, or instruction, be resolved by consultation between the Parties at the lowest level of the organization. If disputes are unable to be resolved at the lowest level, the disputes will be elevated to the next level prior to being elevated to the EG. The Secretary of the Interior will have final decision-making authority over any disputes.

E. Funding

This MOU is subject to the availability of appropriations. Within budgetary constraints, the Parties commit to maintain adequate staffing and resources to participate and implement the provisions of this MOU. The MOU does not and should not be construed as an obligation or commitment of transfer of funds. Each Party will bear its own costs resulting from the

AMERICAN OVERSIGHT

responsibilities under the MOU. Any agreements to obligate or transfer funds will be executed in writing in separate agreements and in accordance with applicable fiscal and contracting laws and regulations, including the proper administrative review prior to obligation of those funds. Any such subsequent contract or funding agreements should reference and incorporate the terms of this MOU.

F. Information Requests

To the extent permissible by each Party's applicable Freedom of Information Act (FOIA) regulations, in the event a Party receives a FOIA request for records related to the subject of this MOU, the agency receiving the request will:

(a) to the extent practicable, consistent with FOIA obligations: attempt to coordinate with other Parties before disclosing responsive records that originated with one of the other Parties; and provide notice to the Party with whom the record originated when the records are released; and

(b) refer the responsive records to the other Parties for processing when the responsive records originated with one of the other Parties.

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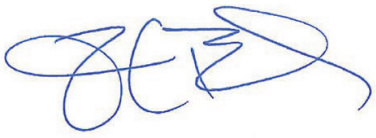
IX. Signatures

APPROVED:

For the UNITED STATES DEPARTMENT OF THE INTERIOR



Honorable Tommy Beaudreau, Deputy Secretary
U.S. Department of the Interior

Date: **01/14/2022**

AMERICAN OVERSIGHT

APPROVED:

For the UNITED STATES DEPARTMENT OF AGRICULTURE

Jewel Bronaugh Digitally signed by Jewel Bronaugh
Date: 2022.01.14 12:46:32 -05'00'

Honorable Dr. Jewel Bronaugh, Deputy Secretary
U.S. Department of Agriculture

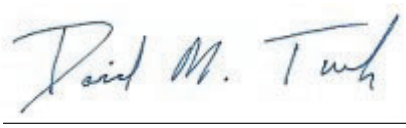
Date: 01/14/2022

NM-EMNRD-22-0512-B-000539

AMERICAN OVERSIGHT

APPROVED:

For the UNITED STATES DEPARTMENT OF ENERGY



Honorable David M. Turk, Deputy Secretary
U.S. Department of Energy

Date: 01/14/22

AMERICAN OVERSIGHT

APPROVED:

For the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JANET MCCABE Digitally signed by JANET MCCABE
Date: 2022.01.14 08:39:05 -05'00'

Honorable Janet McCabe, Deputy Administrator
U.S. Environmental Protection Agency

Date: 1/14/22

AMERICAN OVERSIGHT

APPROVED:

For the INTERSTATE OIL AND GAS COMPACT COMMISSION



Honorable J. Kevin Stitt, Governor of Oklahoma
Chair
Interstate Oil and Gas Compact Commission

Date: 1/13/2022

AMERICAN OVERSIGHT

NM-EMNRD-22-0512-B-000542

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 19, 2022 5:35 PM EDT
To: Ortega, Caitlin, EMNRD <Caitlin.Ortega@state.nm.us>
Subject: FW: [EXTERNAL] IOGCC Annual Business Meeting

See below, I got an alert from the hotel that confirmed my reservation but can you confirm everything is good for this?

Right now I am looking at driving out to OKC in my personal vehicle but will confirm that for you tomorrow.

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, April 19, 2022 10:42 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] IOGCC Annual Business Meeting

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Hi Adrienne,

Are you going to be able to make it to OKC? I don't have a record of you having a hotel reservation.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



AMERICAN OVERSIGHT

From: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Sent: Tuesday, January 25, 2022 11:13 AM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices

This just hit me, its tomorrow. I don't think we reached any conclusions. I could likely still go it but it would be very high level.

Thank You

Brandon Powell
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Powell, Brandon, EMNRD
Sent: Friday, January 7, 2022 3:16 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: RE: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices

This appears more procurement and less implementation. I could do it and present the plugging contract and how it works at a high level.

Thank You

Brandon Powell
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, January 7, 2022 3:13 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Cc: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices
Importance: High

Because we don't have enough to do, see highlighted below. We could take the plugging presentation I've done for legislature and really shorten it.

If doable I do think it would be good to participate. Let me know, regardless please at least plan to attend.

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, January 7, 2022 2:36 PM
To: Adam Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; casey.hanell@dnr.wa.gov; Catherine Dickert <catherine.dickert@dec.ny.gov>; Cindy Mulkey <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov; danny.sorrells@rrc.texas.gov; dennis.hatfield@ky.gov; Eric Vendel <eric.vendel@dnr.state.oh.us>; Ines Piccinino <ines.piccinino@bcogc.ca>; james.a.martin@wv.gov; Jeremy Price <Jeremy.price@alaska.gov>; Jess New <jnew@ogb.state.ms.us>; james.chapman@ncdenr.gov; Jim Halvorson <jhalvorson@mt.gov>; joe.gillman@dnr.mo.gov; John Baza <johnbaza@utah.gov>; john.coates@floridadep.gov; Julie M. Murphy <julie.murphy@state.co.us>; kim.doane@novascotia.ca; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lucy Blocker <lucy.blocker@state.sd.us>; Lynn Helms <lhelms@nd.gov>; azogcc@azdeq.gov; Martin Foy <martin.foy@aer.ca>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; michael.lees@state.sd.us; Molly Michaelson <molly.michaelson@maryland.gov>; Nick Tew <ntew@ogb.state.al.us>; pauline_dejong@gov.nt.ca; Phil Skorupa <phil.skorupa@dmme.virginia.gov>; Robyn Strickland

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<Robyn.Strickland@occ.ok.gov>; schweire@dhec.sc.gov; Roxanne Reiley <Roxanne.Reiley@tn.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan Hoffman <r.hoffman@kcc.ks.gov>; Scott Perry <scperry@pa.gov>; Weaver, Scott ER <scott.weaver@gov.sk.ca>; Stan Belieu <sbelieu@nogcc.ne.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; John Adams <johnny.adams@la.gov>; Dave Hardie <david.hardie@aer.ca>; Frank Thorwald <frankthorwald@thorwaldgroup.com>
Cc: Bob Brinkmann <bob.brinkmann@oregon.gov>; Clay Woodul <clay.woodul@rrc.texas.gov>; Colleen Forrest <Colleen.Forrest@rrc.texas.gov>; aaron.szapa@dnr.mo.gov; Bart Kettle <bartkettle@utah.gov>; Andrews - DNR, David <david.andrews@state.co.us>; Kirk McQuillan <kmcquillan@ogb.state.al.us>; Brad Ice <Brad.Ice@occ.ok.gov>; Boyd, Bradley <brad.boyd@energy.virginia.gov>
Subject: [EXTERNAL] IOGCC Roundtable on Plugging Contract Practices
Importance: High

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Dear Oil and Gas Directors,

Mark your calendars!!! The IOGCC' s Council of Regulatory Officials (CRO) will be conducting a 90-minute roundtable via Zoom on Wednesday, January 26, 2022, from 11:30am-1:00pm CST, to review effective practices for procuring plugging services and managing plugging contracts. In the newly released IOGCC report, *Idle and Orphan Oil and Gas Wells: State and Provincial Regulatory Strategies 2021* , contracting procedures were identified as an area for further work. With the passage of the Infrastructure Investment and Jobs Act (IIJA), it is more important than ever to share these practices.

This roundtable will focus on states and provincial programs that have implemented approaches to procurement and contracting that have enabled them to engage plugging services more competitively and efficiently. If your state has a program that you would like to highlight and share as a short case study (five to seven minutes), please let me know by January 13, 2022, so that we can add you to the agenda.

You will need to register in advance to join this webinar, see link below.

When: Jan 26, 2022, 11:30 AM Central Time (US and Canada)
Topic: IOGCC Roundtable on Plugging Contract Practices

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_hXnXP-HhQcGowO0J3iFA1Q

Feel free to share this information with others in your organization, but each individual MUST register! We will not allow duplicate registrations.

After registering, you will receive a confirmation email containing the login information for joining the webinar.

If you have any questions do not hesitate to contact me.

Happy Friday!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Sent: Thursday, March 24, 2022 5:26 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: FW: [EXTERNAL] Oxy Closed Loop Gas Storage Applications

AS – for your awareness. BP and I will talk later about this but wanted you to see initially.

From: Montgomery, Kelley A <Kelley_Montgomery@oxy.com>
Sent: Thursday, March 24, 2022 2:32 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Oxy Closed Loop Gas Storage Applications

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon Brandon and Tiffany,

I hope you are doing well. Oxy presented a series of closed loop gas storage cases to the Division in the summer of 2021. OXY was just informed by DCP, our gas gatherer, that there will be a plant outage April 26-29. Oxy will be forced to shut in over 20,000 bopd in order to prevent flaring ~40,000 mcfd for 4+ days.

The areas that this outage will impact are covered by the facilities in Case Nos. **22088** and **22089**.

Would it be possible to prioritize review and approval of those two cases to allow OXY time to prepare its facilities for the outage so we can use our wells for gas storage during this event and avoid unnecessary flaring and shutting in production? We have provided, to our knowledge, all of the information and supplemental information the Engineering Bureau requested either during or shortly after the hearings. We are not aware of any outstanding requests.

We anticipate that we need about 2 weeks to prepare our facilities for the outage.

I appreciate your consideration and am happy to address any questions.

Thank you,

Kelley Montgomery, PE
Regulatory Director
Occidental Oil and Gas
Office - 713.366.5716
Cell: 832.454.8137
kelley_montgomery@oxy.com

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Monday, April 18, 2022 11:07 AM EDT
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: FW: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

??

From: Munds-Dry, Ocean (LDZX) <Ocean.Munds-Dry@conocophillips.com>
Sent: Monday, April 18, 2022 8:56 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: FW: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

Hi Adrienne,

Hope you had a good weekend. Do you know if any progress has made on deleting old OGRIDS?

Thanks,
Ocean

From: Shockency, Ruth
Sent: Wednesday, March 23, 2022 11:29 AM
To: Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>; Baker, Tim <Tim.Baker@conocophillips.com>
Subject: FW: [EXTERNAL] RE: [EXTERNAL]Operator Administrators
Importance: High

Hello,

I am emailing as guided per Rob to follow up on getting access to PGRIDS needed to complete the C115B reporting required and then to work towards shutting those OGRIDS and all associated facilities down or inactivating them. Any guidance you can provide would be greatly appreciated. I have attached my communications with Rob containing further details as well.

Thanks

From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Wednesday, March 23, 2022 10:37 AM
To: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

Ruth,

If you want to follow up, the general email for the engineer's inbox is:

ocd.engineer@state.nm.us

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/

From: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Sent: Wednesday, March 23, 2022 10:35 AM
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

No problem, should I reach out to someone in that group to initiate a conversation?

From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Wednesday, March 23, 2022 10:34 AM
To: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

Hello Ruth,

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Sorry I didn't communicate this with you, but Adrienne has taken this on with Engineering. So they are trying to hammer out the solution.

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/

From: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Sent: Wednesday, March 23, 2022 9:35 AM
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators
Importance: High

Hi Rob,

I wanted to follow up on this as I hadn't heard of any resolution to these OGRIDS yet. Adrianne was on a NMOGA meeting but didn't address these specific issues I am having. I will be going on PTO next week but will check emails here and there. I am hoping to be able to get this resolved ahead of the next Quarterly report.

Thanks for your time and help!

From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Monday, March 14, 2022 1:47 PM
To: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

Hello Ruth,

I talked to my director and I believe she may be pulling a meeting together to work this out.

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/

From: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Sent: Monday, March 14, 2022 8:53 AM
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Cc: Russell, Robyn M <Robyn.M.Russell@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

HI Rob,

Attached are the OGRIDS I need to be the admin on please. Also the list below are not on the drop down list to request to be the admin. What do wee need to do for these? The one is yellow is for Concho and needed as well. I have included Robyn Russel whom is the admin for OCD and my supervisor.

99137	CONOCOPHILLIPS COMPANY
5097	CONOCO INC
321825	CONOCOPHILLIPS CO.
225342	CONOCOPHILLIPS COMPANY
219138	CONOCOPHILLIPS CO.
56697	CONOCOPHILLIPS & ATOFINA PETROCHEMICALS,INC
33995	CONOCO PHILLIPS COMPANY
99165	CONOCOPHILLIPS COMPANY
99210	CONOCOPHILLIPS COMPANY
56586	CONOCO INC
230359	CONOCO PHILLIPS
186136	CONOCO INC. & CONOCO GAS HOLDINGS LLC
283260	CONOCO PHILLIPS COMPANY
258995	CONOCOPHILLIPS PIPELINE COMPANY
230930	COG OPERATING LLC

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Thanks!

From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Monday, March 14, 2022 7:59 AM
To: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Subject: RE: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

Go to this page and near the bottom click on this text:

"Sign up to be an Operator Administrator".

Submit one for each OGRID you need to do a filing with.

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/

From: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Sent: Monday, March 14, 2022 7:56 AM
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Subject: [EXTERNAL] RE: [EXTERNAL]Operator Administrators

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Conoco Phillips to be merged please.

From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Thursday, March 10, 2022 8:49 AM
To: Shockency, Ruth <Ruth.Shockency@conocophillips.com>
Subject: [EXTERNAL]Operator Administrators

CAUTION:This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Ruth,

I tried calling a couple times this morning to start a line of communication to get this going. There seems to be far more confusion about this than needs be. So, give me a call and let's talk and get this ironed out.

Sincerely,

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/



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From: Sandoval, Adrienne, EMNRD
Sent: Friday, March 25, 2022 3:34 PM EDT
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: FW: [EXTERNAL] RE: DOI Initial state guidance
Attachment(s): "Annex language for State Guidance.docx"

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, March 25, 2022 1:32 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Lynn Helms (lhelms@nd.gov) <lhelms@nd.gov>
Subject: FW: [EXTERNAL] RE: DOI Initial state guidance

Good afternoon,

The DOI just sent over this language that will be added to the DRAFT guidance. The information is straight forward and is more of a "how to apply" for the funds but I wanted you to have the opportunity to review it. I am familiar with grant procedures so I will review it as well. If you want some background on the request see emails below.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

From: Currie, Katherine P <katherine_currie@ios.doi.gov>
Sent: Friday, March 25, 2022 2:17 PM
To: Amy Childers <amy.childers@iogcc.state.ok.us>
Cc: Stachelberg, Winnie <winnie_stachelberg@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>
Subject: RE: [EXTERNAL] RE: DOI Initial state guidance

Thanks, Amy. Language is attached. Happy to set something up if you'd like more clarity.

Kat

Katherine Currie (she/her)
Deputy Infrastructure Coordinator
Katherine_currie@ios.doi.gov
c: 202-549-0305

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Friday, March 25, 2022 2:22 PM
To: Currie, Katherine P <katherine_currie@ios.doi.gov>
Cc: Stachelberg, Winnie <winnie_stachelberg@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>
Subject: [EXTERNAL] RE: DOI Initial state guidance

This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Hi Kat,

Could you send over the grant guidance so we can take a look? If we have questions or need more clarity, we can set something up?

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Currie, Katherine P <katherine_currie@ios.doi.gov>
Sent: Friday, March 25, 2022 1:19 PM
To: Amy Childers <amy.childers@iogcc.state.ok.us>
Cc: Stachelberg, Winnie <winnie_stachelberg@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>
Subject: FW: DOI Initial state guidance

Hi Amy,

I received an out of office from Lori so wanted to check with you. I'm reaching out because I've been working on a parallel piece of the orphaned wells initial state grants guidance. It's standard language for federal grants that we intend to include in the final guidance. We didn't want to slow down the public comment opening date while we finalized the relevant pro forma language but are happy to discuss with you and/or your team. Would you like to discuss, and if so, should I set up a call?

Thanks for your help.
Kat

Katherine Currie (she/her)
Deputy Infrastructure Coordinator
Katherine_currie@ios.doi.gov
c: 202-549-0305

From: Currie, Katherine P
Sent: Friday, March 25, 2022 2:16 PM
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Cc: Stachelberg, Winnie <winnie_stachelberg@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Tryon, Steve G <stephen_tryon@ios.doi.gov>
Subject: DOI Initial state guidance

Hi Lori,

I don't believe we've met, though I've been on at least one call with you this month while we worked through comments on the orphaned wells initial state grants guidance. I'm reaching out because I've been working on a parallel piece of the guidance. It's standard language for federal grants that we intend to include in the final guidance. We didn't want to slow down the public comment opening date while we finalized the relevant pro forma language but are happy to discuss with you and/or your team. Would you like to discuss, and if so, should I set up a call?

Thanks for your help.
Kat

Katherine Currie (she/her)
Deputy Infrastructure Coordinator
Katherine_currie@ios.doi.gov
c: 202-549-0305

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DOI – Bipartisan Infrastructure Law
Sec. 40601, P.L. 117-58 - Orphaned Well Site Plugging, Remediation, and Restoration
Annex to the Initial State Grants Guidance

Overview: $4.3B orphan well program is historic, new and critical to clean up legacy pollution. These sections provide instructions and awareness to states on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)
Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

2. Conflict of Interest Disclosure
Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict of interest exists at the time of submission.
(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

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(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. states expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. states must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. state. Prior to application submission, U.S. state applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the

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state intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability
Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process
The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict of Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arise during the life of their Federal award, including those reported to them by

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any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict of interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

AMERICAN OVERSIGHT

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Wednesday, May 11, 2022 5:41 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Sita, Susan, EMNRD <Susan.Sita@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp
Attachment(s): "05-06-22 IPRA OCD Response 3-Day Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.pdf","Blake Johnson Request to Inspect Public Records.pdf"

Hello Dir. Sandoval, Susan and Jesse,
Please See email communication below, sent from IPRA requestor; Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp.
(See attached IPRA response for reference). OCD provided the 3 Day response last Friday: 05-06-2022, requesting specific information.

NOTE IPRA DUE: 5-18-2022.
Advise when you all can, thank you.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Johnson, Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 10, 2022 11:57 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Hi Anna,

Thank you so much for the quick response. I am asking really to understand anything that might be affecting ZPZ or any of its affiliates . While this specific request is for a lease we are transferring with the State Land Office, we are trying to conduct an audit of all potential violations so we can have them identified. To my knowledge, ZPZ nor any of its affiliates have any properties, facilities, wells etc. located on the lands in question being E/2SE/4, W/2SW/4, Section 17, 19S-28E, Eddy County, New Mexico.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Friday, May 6, 2022 7:05 PM
To: Johnson, Blake <Blake.Johnson@apachecorp.com>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

---

May 6, 2022

To: Apache Corporation
Att; C/O Blake Johnson

AMERICAN OVERSIGHT

2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,
Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

Please see attached OCD IPRA Correspondence entitled: *05-06-2022 IPRA OCD 3-Day Response Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.*,
and advise at your earliest convienance.

Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 3, 2022 8:38 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: [EXTERNAL] Request to inspect public records

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Good morning Ms. Squires.

Please see the attached request to inspect the public records.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

CAUTION: This email originated outside of Apache. **DO NOT CLICK** on links or attachments unless you know the content is safe and relevant to Apache business. If you are unsure about this message, click “Report Phish” in Outlook or send to phish@apachecorp.com

AMERICAN OVERSIGHT

State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval Director
Oil Conservation Division

May 6, 2022

To:
Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

RE: "I would like to inspect and copy the following records":

1.) *" Has the New Mexico Oil Conservation Division (OCD) ever, at any point in time, issued or sent, or entered into, any Notices of Violation , warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below , or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of, with respect to Lease No. E0-2126-0006 in Eddy County, New Mexico? If yes, please provide copies of all such Notices of Violation, Warning Letters, compliance orders, or settlement agreements. AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC.*

2.) *Has the New Mexico Oil Conservation Division (OCD) ever, within the past five years, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of? If yes, please provide copies of all such Notices of Violation, warning letters, compliance orders, or settlement agreements." AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC."*

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Oil Conservation Division dose not regulate lease information and have no responsive records related to this portion of the request.

Due to the broad and burdensome nature of request No. one (1) and No. two (2), OCD expects that it will take an additional 4 weeks (28 days) to reply, ending; 05-31-2022.

If the requester can narrow the request to specific information citing; API, Facility, Incident I.D. of concern, and/or origin date of the Lease in question to Apache, OCD may be able to respond sooner.

Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

AMERICAN OVERSIGHT

Form I
REQUEST TO INSPECT PUBLIC RECORDS

May 3, 2022

TO: Anna Squires
Records Custodian
New Mexico Oil and Gas Conservation Divisions
1220 South St. Francis Drive, Santa Fe, NM 87505

FROM: Apache Corporation
C/O Blake Johnson
2000 Post Oak Blvd, Suite 100, Houston, TX 77056
281-302-2606

I would like to inspect and copy the following records:

1. Has the New Mexico Oil Conservation Division (OCD) ever, at any point in time, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of, with respect to Lease No. E0-2126-0006 in Eddy County, New Mexico? If yes, please provide copies of any and all such Notices of Violation, warning letters, compliance orders, or settlement agreements.

- Apache Corporation
- Apache Permian Exploration and Production LLC
- Permian Basin Joint Venture LLC

2. Has the New Mexico Oil Conservation Division (OCD) ever, within the past five years, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of? If yes, please provide copies of any and all such Notices of Violation, warning letters, compliance orders, or settlement agreements.

- Apache Corporation
- Apache Permian Exploration and Production LLC
- Permian Basin Joint Venture LLC

If your agency does not maintain these public records, please let me know who does, and include the proper custodian's name and address.

I agree to pay the applicable fees for copying and transmitting the records. If the charges will exceed $ 100 please call me to discuss. I understand that I may be asked to pay the fees in advance.

Please provide a receipt indicating the charges for each document.

Thank you for your prompt attention to this matter.

Sincerely,

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Thursday, May 19, 2022 5:01 PM EDT
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
CC: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp
Attachment(s): "05-06-22 IPRA OCD Response 3-Day Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.pdf","Blake Johnson Request to Inspect Public Records.pdf"

Brandon/Rob- Please see the attached IPRA request and the additional information below adding some clarification to what they are asking for. Generally it sounds like any field compliances/ACOs etc associated with the companies in the letter. Please send Anna any response by EOB the 25th.

Thanks
Adrienne

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Thursday, May 19, 2022 2:26 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Hello Dir. Sandoval,
Thank you. Please see the clarification notes sent from the requestor, Blake Johnson of Apache Corp., at the bottom of this email. For you reference, see original request and the OCD IPRA 3-Day response (sent 5-06-22 see attached) citing request for extension.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Squires, Anna, EMNRD
Sent: Wednesday, May 18, 2022 3:05 PM
To: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Jesse,
After review of this IPRA, The attached 3 Day letter was sent to Mr. Blake Johnson, on time, however there have not yet been any responsive docs.
Would this IPRA need to go to the custodian of records for State Land Office (?)
(See Mr. Johnsons clarifications below)
Advise when you can, Thank you.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Squires, Anna, EMNRD
Sent: Wednesday, May 11, 2022 3:41 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Sita, Susan, EMNRD <Susan.Sita@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Hello Dir. Sandoval, Susan and Jesse,
Please See email communication below, sent from IPRA requestor; Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp.
(See attached IPRA response for reference). OCD provided the 3 Day response last Friday: 05-06-2022, requesting specific

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information.

NOTE IPRA DUE: 5-18-2022.
Advise when you all can, thank you.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Johnson, Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 10, 2022 11:57 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

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Hi Anna,

Thank you so much for the quick response. I am asking really to understand anything that might be affecting ZPZ or any of its affiliates . While this specific request is for a lease we are transferring with the State Land Office, we are trying to conduct an audit of all potential violations so we can have them identified. To my knowledge, ZPZ nor any of its affiliates have any properties, facilities, wells etc. located on the lands in question being E/2SE/4, W/2SW/4, Section 17, 19S-28E, Eddy County, New Mexico.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Friday, May 6, 2022 7:05 PM
To: Johnson, Blake <Blake.Johnson@apachecorp.com>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

---

May 6, 2022

To: Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,
Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

Please see attached OCD IPRA Correspondence entitled: *05-06-2022 IPRA OCD 3-Day Response Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.*,
and advise at your earliest convienance.

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Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 3, 2022 8:38 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: [EXTERNAL] Request to inspect public records

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning Ms. Squires.

Please see the attached request to inspect the public records.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

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State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Cabinet Secretary

Adrienne Sandoval Director
Oil Conservation Division

May 6, 2022

To:
Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,

Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

RE: "I would like to inspect and copy the following records":

1.) *" Has the New Mexico Oil Conservation Division (OCD) ever, at any point in time, issued or sent, or entered into, any Notices of Violation , warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below , or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of, with respect to Lease No. E0-2126-0006 in Eddy County, New Mexico? If yes, please provide copies of all such Notices of Violation, Warning Letters, compliance orders, or settlement agreements. AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC.*

2.) *Has the New Mexico Oil Conservation Division (OCD) ever, within the past five years, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of? If yes, please provide copies of all such Notices of Violation, warning letters, compliance orders, or settlement agreements." AFFILIATES: Apache Corporation, Apache Permian Exploration and Production LLC, Permian Basin Joint Venture LLC."*

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Oil Conservation Division dose not regulate lease information and have no responsive records related to this portion of the request.

Due to the broad and burdensome nature of request No. one (1) and No. two (2), OCD expects that it will take an additional 4 weeks (28 days) to reply, ending; 05-31-2022.

If the requester can narrow the request to specific information citing; API, Facility, Incident I.D. of concern, and/or origin date of the Lease in question to Apache, OCD may be able to respond sooner.

Respectfully,

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

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Form I
REQUEST TO INSPECT PUBLIC RECORDS

May 3, 2022

TO: Anna Squires
Records Custodian
New Mexico Oil and Gas Conservation Divisions
1220 South St. Francis Drive, Santa Fe, NM 87505

FROM: Apache Corporation
C/O Blake Johnson
2000 Post Oak Blvd, Suite 100, Houston, TX 77056
281-302-2606

I would like to inspect and copy the following records:

1. Has the New Mexico Oil Conservation Division (OCD) ever, at any point in time, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of, with respect to Lease No. E0-2126-0006 in Eddy County, New Mexico? If yes, please provide copies of any and all such Notices of Violation, warning letters, compliance orders, or settlement agreements.

- Apache Corporation
- Apache Permian Exploration and Production LLC
- Permian Basin Joint Venture LLC

2. Has the New Mexico Oil Conservation Division (OCD) ever, within the past five years, issued or sent, or entered into, any Notices of Violation, warning letters, compliance orders, or settlement agreements, to or with ZPZ Delaware I LLC or the affiliates listed below, or which ZPZ Delaware I LLC or the affiliates listed below was/were the subject of? If yes, please provide copies of any and all such Notices of Violation, warning letters, compliance orders, or settlement agreements.

- Apache Corporation
- Apache Permian Exploration and Production LLC
- Permian Basin Joint Venture LLC

If your agency does not maintain these public records, please let me know who does, and include the proper custodian's name and address.

I agree to pay the applicable fees for copying and transmitting the records. If the charges will exceed $100 please call me to discuss. I understand that I may be asked to pay the fees in advance.

Please provide a receipt indicating the charges for each document.

Thank you for your prompt attention to this matter.

Sincerely,

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 5:14 PM EDT
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] REGISTER NOW - SPE/IOGCC Webinar Four

Brandon- see below, looks relevant to some of the people in your crew. Please forward as appropriate, it is free.

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, April 11, 2022 12:20 PM
To: Nick Tew <ntew@gsa.state.al.us>; Jeremy Price <Jeremy.price@alaska.gov>; azogcc@azdeq.gov; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Mulkey, Cindy <cindy.mulkey@dep.state.fl.us>; Mick Thomas <mthomas@idl.idaho.gov>; dan.brennan@illinois.gov; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; dennis.hatfield@ky.gov; John Adams <johnny.adams@la.gov>; 'Molly Michaelson' <molly.michaelson@maryland.gov>; Adam W. Wygant <wyganta@michigan.gov>; Jess New <jnew@ogb.state.ms.us>; Jim Halvorson <jhalvorson@mt.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Michael Visher <mvisher@minerals.nv.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Lynn D. Helms <lhelms@nd.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; michael.lees@state.sd.us; danny.sorrells@rrc.texas.gov; John R. Baza <johnbaza@utah.gov>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; james.a.martin@wv.gov; Tom Kropatsch <tom.kropatsch@wyo.gov>; Szapa, Aaron <Aaron.Szapa@dnr.mo.gov>; Roxanne Reiley <Roxanne.Reiley@tn.gov>; Bob Brinkmann <bob.brinkmann@oregon.gov>; casey.hanell@dnr.wa.gov
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Adam Peltz <apeltz@edf.org>; 'Todd Boesiger' <tboesiger@nogcc.ne.gov>
Subject: [EXTERNAL] REGISTER NOW - SPE/IOGCC Webinar Four

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Good afternoon Oil and Gas Directors,

The IOGCC Energy Resources, Research and Technology (ERRT) Committee is partnering with the Society of Petroleum Engineers (SPE) to produce a webinar series geared towards the regulatory community. The fourth webinar will cover induced seismicity and recent advances in hydraulic fracturing diagnostics and will take place on **Monday, April 18, 2022, from 12:00pm-1:30pm CT**.

Join industry experts Dr. Mike Brudzinski, Professor of Seismology, Miami University Ohio, and Mary Van Domelen, Senior Completions Advisor, Well Data Labs, as they explore the physical mechanisms and characterization of seismic events. They will also discuss a new completion process, simul-frac, which may offer increased operational efficiency for simul-frac compared to zipper fracturing.

Click **here** for more details regarding the fourth webinar:**Induced Seismicity and Recent Advances in Hydraulic Fracturing Diagnostics**

These webinars are free to IOGCC-member regulators thanks to the sponsorship of the Environmental Defense Fund and IOGCC. Regulators should contact Kaitlyn Smith at kaitlyn.smith@iogcc.state.ok.us to receive the complimentary registration code.

Please feel free to share this information with your staff members if you believe they could benefit from this webinar!

Let me know if you have any further questions.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Thursday, April 21, 2022 11:07 AM EDT
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>
Subject: FW: [EXTERNAL] REMINDER - DOI Training on Initial Grants
Attachment(s): "state-initial-grant-guidance-4-11-22.pdf","Final Inital Grant Guidance redlined.pdf"

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Wednesday, April 20, 2022 2:48 PM
Cc: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>; Dianne Jones <dianne.jones@iogcc.state.ok.us>
Subject: [EXTERNAL] REMINDER - DOI Training on Initial Grants
Importance: High

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Good afternoon State Representatives,

This is a reminder that DOI will provide training on initial grants this **Friday, April 22, 2022, from 2:00-4:00 PM ET**. IOGCC is assisting DOI by hosting the webinar via Zoom. If you have not already done so, please register for the webinar here: https://us02web.zoom.us/webinar/register/WN_cFoTuajtQQeL9AM4fOlAZA.

If you are unable to attend on April 22nd, we will be recording the training presentations for later viewing. DOI will also host an additional session on **Wednesday, April 27, 2022, from 12:30-2:00 PM ET** to allow for further questions and answers. You will need to register in advance for the April 27th session here: https://us02web.zoom.us/webinar/register/WN_WJkZp5McROOEk-YP2Z0GmQ.

Attached for your convenience is the final guidance, along with a redlined version showing the changes and additions DOI made after releasing the March 17th draft. DOI has posted the guidance and related documents here: https://www.doi.gov/oepc/legacy-pollution-remediation-and-reclamation. Please let us know if you need anything else to help you prepare for the training.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



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UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. ~~sets~~Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. ~~describes~~Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on ~~state~~State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the

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amended Section 349 will be written as components of Section 40601 of the BIL in this document.

-requirements in the subsequent orphaned well grants, so ~~states~~States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

~~[‡] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.~~

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to ~~well-plugging and site reclamation projects~~activities listed under Sec. 40601(c)(2)(A), i through viii, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Community" – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.[4]

"Date of receipt of funds~~" ,~~" as identified in Sec. 40601(c)(3)(A)(i)(II)(cc~~) this)~~, is the effective date ~~on which~~of the ~~awarded~~ grant ~~is available for obligation in~~and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving ~~State's financial system of record.~~State. For ~~purposes of this guidance, the~~ the large-scale Initial grant, the effective date ~~of receipt shall refer to the date when a recipient organization initiates its first drawdown~~begins the 90-day period within which the State must "use" no less than 90% of funds as certified in the grant application. To "use … funding" under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.

[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

~~from the Automated Standard Application~~[4] Definition from OMB and CEQ Interim Implementation Guidance for ~~Payment (ASAP).~~the Justice40 Initiative (M-21-28) dated July 20, 2021

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"Disadvantaged Community" – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.[5]

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's ~~on-shore~~onshore plugging and reclamation standards and DOI approval prior to the start of operations.

~~[2] Except as provided by Section 40601(e)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.~~

~~[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex~~

[5] Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July

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20, 2021. See Climate and Economic Justice Screening Tool at: Explore the tool - Climate & Economic Justice Screening Tool (geoplatform.gov)

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[46]

"Orphaned Well" ~~–~~ The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, ~~or~~ the operator of which is unable to plug the well and to remediate and reclaim the well site~~.~~, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term ~~also~~:

(1) has the meaning given the term by the applicable State; or

(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Pre-Award Costs" – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

"Tribal and ~~indigenous~~Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" ~~–~~ For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[57]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- ii. identify and characterize undocumented orphaned wells on State and private land;
- iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

- ~~i.~~ [6]~~make information regarding the use of funds received available on a public website;~~
- ~~measure and track emissions of methane and other gases associated with~~

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~~orphaned wells;~~

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics

[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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iv. make information regarding the use of funds received available on a public website;

v. measure and track -

I. emissions of methane and other gases associated with orphaned wells; and

II. contamination of groundwater or surface water associated with orphaned wells;

vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;

vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on ~~disadvantaged communities, including~~ communities of color, low-income communities, and Tribal and ~~indigenous~~Indigenous communities; and

ix. administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a-

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~~E.~~ year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the ~~state~~State to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
(d) OMB Form 4040-0010 Key Contacts Form

DRAFT

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ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many ~~are expected to~~will be further refined in coordination with the States and may be required for subsequent grants~~, and~~. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on ~~disadvantaged communities, including~~ communities of color, low-income communities, and Tribal and ~~indigenous~~Indigenous communities;

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(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;

(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the ~~state~~State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and

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(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(~~3)(~~c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications* (digital signatures are acceptable)

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see ~~attached format~~Attachment A) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see ~~attached format~~Attachment B) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or-

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~~i.~~ estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also ~~expected~~encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to ~~follow~~use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the OEPC Legacy Pollution Program website,[8] to measure and report methane emissions from orphaned wells. States may also use a third-party methodology ~~for measurement and verification~~, such as the American Carbon Registry's draft methodology ~~(once finalized).~~[6]-.[9] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,-

[8] https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution
[9] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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~~iii.~~ the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. ~~As early as practical- preferably before State grant applications~~As early as practical – preferably before State grant applications are submitted – States should provide a primary contact for coordination between Tribal and Federal land management agencies to **orphanedwells@ios.doi.gov**. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to **orphanedwells@ios.doi.gov**.

[6] ~~https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells~~

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~~are submitted. States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.~~

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land~~.~~, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the Federal Land Manager (e.g., cooperative agreement). Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 ~~or~~ other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of~~-~~

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~~C.~~ period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the ~~Final~~corresponding quarterly Financial and Performance Report described in VII.C, a separate ~~Final~~quarterly Financial and Performance Report need not be submitted~~.~~ for that period.

E. Data Collection and Reporting

~~1.~~In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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1. the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete); ~~complete);~~
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a community of color, low-income, ~~disadvantaged, and/~~ community, or ~~minority~~Tribal or Indigenous community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

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~~2.~~ of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template ~~accompanying this guidance.~~available at the OEPC Legacy Pollution Program website. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior ~~will~~may post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of $2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of $2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

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Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.

For ~~DOI STANDARD AWARD~~additional guidance on how to comply with DBA provisions and clauses, see https:/www.dol.gov/agencies/whd/government-contracts/construction and https:/www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in- construction.

~~VIII.~~IX. ADDITIONAL TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: ~~https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf~~Standard Award Terms and Conditions.

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.

C. ~~The~~Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in ~~state~~State possession and facilitate, to the extent ~~necessary and appropriate~~allowable under State law, Federal awarding agency access to project sites.

~~D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.~~

~~E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.~~

~~F.~~D. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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~~G.~~E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Attachment C

Annex to the Initial State Grants Guidance

Overview: The $4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are part of applying for a Federal award.

1. Unique Entity Identifier and System for Award Management (SAM)
2. Conflict of Interest Disclosure
3. Single Audit Reporting Statement
4. Certification Regarding Lobbying and Disclosure Requirements
5. Intergovernmental Review
6. Data Availability
7. Agency Review Process
8. Additional Reporting Requirements
    a. Significant Development Reports
    b. Conflict of Interest Disclosures
    c. Other Mandatory Disclosures
    d. Reporting Matters Related to Recipient Integrity and Performance
9. Payments

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

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(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or

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award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

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the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.

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UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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requirements in the subsequent orphaned well grants, so States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to activities listed under Sec. 40601(c)(2)(A), i through viii, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Community" – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.[4]

"Date of receipt of funds," as identified in Sec. 40601(c)(3)(A)(i)(II)(cc), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving State. For the large-scale Initial grant, the effective date begins the 90-day period within which the State must "use" no less than 90% of funds as certified in the grant application. To "use … funding" under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex
[4] Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021

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"Disadvantaged Community" – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.[5]

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's onshore plugging and reclamation standards and DOI approval prior to the start of operations.

[5]Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021. See Climate and Economic Justice Screening Tool at: Explore the tool - Climate & Economic Justice Screening Tool (geoplatform.gov)

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[6]

"Orphaned Well" – The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, the operator of which is unable to plug the well and to remediate and reclaim the well site, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Pre-Award Costs" – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

"Tribal and Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" – For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[7]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:
   i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
   ii. identify and characterize undocumented orphaned wells on State and private land;
   iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

[6] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[7] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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iv. make information regarding the use of funds received available on a public website;
v. measure and track -
I. emissions of methane and other gases associated with orphaned wells; and
II. contamination of groundwater or surface water associated with orphaned wells;
vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities; and
ix. administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a

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year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the State to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
(d) OMB Form 4040-0010 Key Contacts Form

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ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many will be further refined in coordination with the States and may be required for subsequent grants. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities;

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(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and

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(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications* (digital signatures are acceptable)

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see Attachment A) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see Attachment B) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. <u>Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution</u>

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or

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estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the OEPC Legacy Pollution Program website,[8] to measure and report methane emissions from orphaned wells. States may also use a third-party methodology, such as the American Carbon Registry's draft methodology.[9] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,

[8] https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution
[9] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical – preferably before State grant applications are submitted – States should provide a primary contact for coordination between Tribal and Federal land management agencies to **orphanedwells@ios.doi.gov**. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to **orphanedwells@ios.doi.gov**.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the Federal Land Manager (e.g., cooperative agreement). Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of

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period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the corresponding quarterly Financial and Performance Report described in VII.C, a separate quarterly Financial and Performance Report need not be submitted for that period.

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

   (a) Well location information (e.g., latitude/longitude);
   (b) Well type (e.g. orphaned production or disposal well);
   (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
   (d) The population living within a half mile radius of each well being plugged;
   (e) Pre-plugging methane emissions (if available);
   (f) Post-plugging methane emissions;
   (g) Surface water contamination identified;
   (h) Surface water contamination remediated;
   (i) Groundwater contamination identified;
   (j) Groundwater contamination remediated;
   (k) Acreage impacted by well and infrastructure (site footprint);
   (l) Revegetation performance standard monitoring start date;
   (m) Revegetation performance standard attainment date (project complete);
   (n) Actual total cost per well of plugging and surface reclamation; and
   (o) If the project is located in a community of color, low-income community, or Tribal or Indigenous community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

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of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template available at the OEPC Legacy Pollution Program website. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior may post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of $2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of $2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

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Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.

For additional guidance on how to comply with DBA provisions and clauses, see https:/www.dol.gov/agencies/whd/government-contracts/construction and https:/www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction.

IX. ADDITIONAL TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: Standard Award Terms and Conditions.

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.

C. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent allowable under State law, Federal awarding agency access to project sites.

D. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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Attachment A OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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Attachment B OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Attachment C

Annex to the Initial State Grants Guidance

Overview: The $4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

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(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or

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award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

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the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.

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From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Tuesday, October 12, 2021 10:43 AM EDT
To: Moander, Christopher <cmoander@nmag.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: FW: [EXTERNAL] Request for Subpoena for OCC Case 21744
Attachment(s): "Subpoena for Brent McDonald OCC Case 21744 101221.docx","Subpoena for Brent McDonald OCC Case 21744 101221.pdf"

From: Darin Savage <darin@abadieschill.com>
Sent: Tuesday, October 12, 2021 8:06 AM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Cc: Paula Vance <paula@abadieschill.com>
Subject: Re: [EXTERNAL] Request for Subpoena for OCC Case 21744

Florene, good morning, sorry about that, thanks for letting me know. See attached. Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

*P | **970.385.4401** :: F | **970.385.4901** :: C | **970.764.8191***

CONFIDENTIAL NOTICE: This electronic transmission and any documents or other writings sent with it constitute confidential information which is intended only for the named recipient and which may be legally privileged. If you have received this communication in error, do not read it. Please reply to the sender at Abadie & Schill, PC that you have received the message in error. Then delete it. Any disclosure, copying, distribution or the taking of any action concerning the contents of this communication or any attachment(s) by anyone other than the named recipient is strictly prohibited.

> On Oct 12, 2021, at 7:59 AM, Davidson, Florene, EMNRD <florene.davidson@state.nm.us> wrote:
>
> Mr. Savage, I'm sorry but there was no attachment to the below e-mail.
>
> Florene Davidson
>
> ---
>
> **From:** Darin Savage <darin@abadieschill.com>
> **Sent:** Monday, October 11, 2021 6:26 PM
> **To:** Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
> **Cc:** Paula Vance <paula@abadieschill.com>
> **Subject:** [EXTERNAL] Request for Subpoena for OCC Case 21744
>
> CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
> Florene, good evening,
>
> I have attached a word document and pdf of a proposed Subpoena that we would like to issue to Mr. Brent McDonald. Mr. McDonald made an appearance in OCD Case No. 21629, as a participant and owner and filed a statement in said case, and we would like him to be available to address questions about his statement in the Evidentiary Hearing in OCC Case No. 21744 on Thursday, October 14, 2021. Please see attached.

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Please let us know if you have any questions or need additional info,

Thank you,

Darin

<~WRD0000.jpg>
DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

---

*P | **970.385.4401** :: F | **970.385.4901** :: C | **970.764.8191***

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BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGAGE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Division Order Nos. R-21575, R-21575-A, & R-21575-B

SUBPOENA

To: Brent McDonald,
Senior Vice President of
Prosperity Bank fka American State Bank,
1401 Avenue Q
Lubbock, TX 79401
Telephone: 806-741-2371
Email: brent.mcdonald@prosperitybankusa.com

Pursuant to NMSA 1978 §70-2-8 and NMAC 19.15.4.16, you are hereby ordered to appear at 9 a.m. on Thursday, October 14, 2021, at an Evidentiary Hearing in Commission Case No. 21744. Such hearing is typically held at the offices of the Oil Conservation Commission ("Commission"), 1220 South St. Francis Drive, Santa Fe, New Mexico 87505; however, under Covid-19 Public Health Emergency conditions, you may attend the Evidentiary Hearing online and remotely, from the convenience of your desktop at your current residence, office, or other convenient desktop location. Information regarding online access, connection, and status of the hearing can be found on the Commission website at: https://www.emnrd.nm.gov/ocd/occ-info/, or you can contact Florene Davidson, Commission Clerk, at (505) 470-5480 for access information. You are being asked as a witness to address questions counsel or the Commission may have during the proceedings of said Evidentiary Hearing pertaining to the contents of the Pre-

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hearing Statement you filed in Case No. 21629 and received by the New Mexico Oil Conservation Division on January 11, 2021.

This subpoena is issued on the application for hearing *de novo* of Cimarex Energy Co., for the proceedings in Case No. 21744, including the Evidentiary Hearing described herein, through its attorney, Darin C. Savage, 214 McKenzie, Santa Fe, New Mexico, 87501.

Dated this 12th day of October 2021.

NEW MEXICO OIL CONSERVATION COMMISSION

By: _____

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AMERICAN OVERSIGHT

BEFORE THE NEW MEXICO OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGAGE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Division Order Nos. R-21575, R-21575-A, & R-21575-B

SUBPOENA

To: Brent McDonald,
Senior Vice President of
Prosperity Bank fka American State Bank,
1401 Avenue Q
Lubbock, TX 79401
Telephone: 806-741-2371
Email: brent.mcdonald@prosperitybankusa.com

Pursuant to NMSA 1978 §70-2-8 and NMAC 19.15.4.16, you are hereby ordered to appear at 9 a.m. on Thursday, October 14, 2021, at an Evidentiary Hearing in Commission Case No. 21744. Such hearing is typically held at the offices of the Oil Conservation Commission ("Commission"), 1220 South St. Francis Drive, Santa Fe, New Mexico 87505; however, under Covid-19 Public Health Emergency conditions, you may attend the Evidentiary Hearing online and remotely, from the convenience of your desktop at your current residence, office, or other convenient desktop location. Information regarding online access, connection, and status of the hearing can be found on the Commission website at: https://www.emnrd.nm.gov/ocd/occ-info/, or you can contact Florene Davidson, Commission Clerk, at (505) 470-5480 for access information. You are being asked as a witness to address questions counsel or the Commission may have during the proceedings of said Evidentiary Hearing pertaining to the contents of the Pre-

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Dated this 12th day of October 2021.

NEW MEXICO OIL CONSERVATION COMMISSION

By: _____

.

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From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 01, 2022 11:53 AM EDT
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] Summary of State Regulations for TENORM
Attachment(s): "Summary of State Regulations for TENORM in Oil and Gas.docx","NORM Guidance Document and Summary of State Regualtions.pdf"

Jim- Can you assist with this survey please? Though, I really think Emily did something similar to this a year or so ago but can't find it in my files. They want it back by the 7th.

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, March 28, 2022 9:32 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Summary of State Regulations for TENORM
Importance: High

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning Adrienne,

As discussed during the Annual Conference, the Environment and Safety Committee is in the process of updating the 2008 Naturally Occurring Radioactive Materials (NORM) Guidance Document. This comprehensive report assists member states and provinces in the development of NORM guidelines and management.

We are asking you to help with this project by completing the attached questionnaire and linking all rules, guidelines, and associated forms that regulate the production, storage, treatment, remediation, disposal, licensing and training requirements, and all associated activities regarding Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) generated from oil and gas operations. Include any regulations that are enforced by other agencies within your state. I have also attached the 2008 NORM Guidance Document if you wanted to review New Mexico's previous response.

Please return your questionnaire to me by **Thursday, April 7th**. If New Mexico has more than one agency, please have all agencies complete the attached questionnaire.

This information will assist IOGCC's efforts to update the 2008 NORM Guidance Document.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



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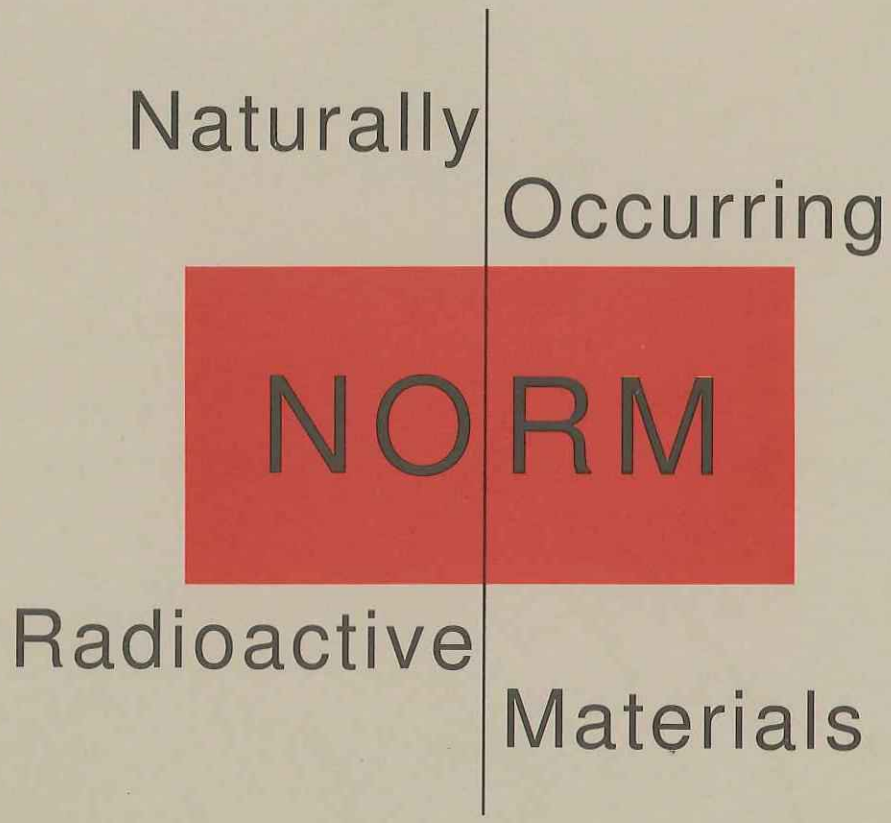

Guidance Document and

Summary of State Regulations for NORM in Oil and Gas

Interstate Oil and Gas Compact Commission

NORM Subcommittee of the Environmental and Safety Committee

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NM-EMNRD-22-0512-B-000630

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PREFACE

This is the final report on the work of a subcommittee of the IOGCC, on NORM oilfield. The industry problem, however, is not really addressed by the report. The report provides thoughtful and feasible solutions; but these solutions are based upon what radiation protection authorities (whomever they are) have institutionalized as an irrational fear that any level of Ionizing radiation is dangerous. Their radiation protection policy is derived from high-dose radiation health effects data (i.e., from Hiroshima and Nagasaki atomic bomb survivors, and from medical therapies). To apply this data to low-dose radiation protection where studies find no adverse health effects, administratively presumes health effects to be linearly proportional to radiation dose down to zero dose. No lower limit is acknowledged below which radiation effects are negligible.

There is no scientific evidence for adverse health effects at the low dose rates experienced in oil field NORM. Most low-dose laboratory and population studies are inadequate to show effects at low levels. However, many show bio-positive or adaptive response at low dose rates.

At present, regulatory levels to manage oil field waste contaminated with NORM costs about $2000 per ton. On occasion it can be significantly higher. This management cost does find its way into the price of gasoline and heating oil. Oilfield NORM is a very minor issue lumped in with all other forms of NORM contaminated waste. It is even less significant when the entire range of ionizing radiation sources are considered. But what is the cost of all these regulated wastes? Using today's standards, each human life hypothetically saved in a Western industrial society by their implementation through protection regulations is estimated to cost about $2.5 billion. The total cost of maintaining these absurdly low and unscientific relationships for radiological doses defies reason. It takes public funds away from other more realistic health risks and desperate public health problems. The cost of immunization against measles, diphtheria, polio and a host of other childhood killers that plague "below the poverty line" children throughout the world would run no more than $100 per vaccination. Are Westerners worth 25 million times as much as a child in Africa, or even a Native American baby on a reservation in New Mexico?

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Radiation health effects' research on low doses has been constrained by radiation science policy, along with scientific knowledge about radiation and human health, and the potential application of radiation in biology, agriculture, and human and non-human health and nutrition. Around the world, radiation medicine and other nuclear applications and benefits are constrained and made uneconomic, and caused preventable adverse health effects, while imposing enormous public costs for "radiation protection" that provide no health benefits. Data exists at the doses and populations to establish that no adverse effects exist. New molecular and cellular biology data demonstrate that cellular control of massive natural DNA damage rates contradicts the biological plausibility of the present standards.

We need to push for a practical threshold; one based upon epidemiological data that presently exists and is ignored. The new paradigm must include data from exposure in medical procedures, the nuclear industry, the data from Three-mile Island, Chernobyl, military exposed during atmospheric testing and, yes, even people who live in regions of high natural radiation. Consider the data that demonstrates thresholds and does not use the irrational extrapolation downward from high dose effects. Let us define a practical threshold, below which we would not expect to find detectable radiologenic cancers or genetic effects. Below this practical threshold no regulation would be necessary, and it would most likely eliminate most oilfield NORM.

Philip N. Asprodites Louisiana Commissioner of Conservation
Chairman, Interstate Oil and Gas Compact Commission
Environmental and Safety Committee

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INTRODUCTION

It is well known in the oil and gas industry that naturally occurring radioactive materials (NORM) are present in the brines that surface during oil and gas production. NORM is found in scale, sludge, produced water, and production and processing equipment.

The regulations of NORM and its restricted handling and disposal have created additional expenses for production and processing operations. This "cost of regulation" falls the hardest on marginal production and during the close out of production facilities.

The oil and gas industry understands that chronic exposure to significant levels of ionizing radiation from any source can be hazardous to the public; however, for the most part, petroleum industry NORM is not characterized by significant levels of radiation. To mitigate any potential risk, the industry, working with state regulatory agencies, is developing and implementing NORM guidelines and management tools that will meet two goals:

- Protection of the health of the general public
- Minimization of the cost of NORM management.

In support of these goals, the NORM Subcommittee of the Environmental and Safety Committee of the Interstate Oil and Gas Compact Commission (IOGCC) compiled a report complete with reference material. The IOGCC hopes the document will assist states in the development of NORM management criteria.

Thomas O. Bush, Ph.D. BPF, Inc. Chairman
Chairman NORM Subcommittee
Interstate Oil and Gas Compact Commission

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I
BACKGROUND

Although the existence of naturally occurring radioactive material (NORM) has been known for quite some time, NORM waste and especially its management is an emerging environmental issue. The methods for treating, processing and disposing of NORM waste are rapidly evolving.[1]

Oilfield NORM is a byproduct of production brines and occurs primarily in the form of radium-226 (Ra-226) with associated levels of radium-228 (Ra-228), which are the daughter products of uranium-238 (U-238) and thorium-232 (Th-232). The radionuclides U-238 and Th-232 are naturally present in many of the subsurface formations containing oil and gas producing reservoirs. Both U-238 and Th-232 are relatively insoluble and remain in place in the subsurface formations. However, their radioactive progeny are slightly soluble in the subsurface and can mobilize in the subsurface liquid environment. Ra-226, polonium-210 (Po-210) and lead-210 (Pb-210) are the principal radionuclides of concern based on their dominant concentrations and relative health concerns.

NORM accumulates in the oil production stream when the dissolved radium (Ra-226 and Ra-228) is carried to the surface in the produced brine water. Formation fluid chemistry determines whether radium dissolution or precipitation occurs. Radium solubility increases in water that has a high saline (total dissolved solids) content and either low or high pH values. Radium is chemically analogous to the alkaline earth element barium and calcium that are typically found dissolved in formation fluids. Chloride and sulfate salts also are typically found in the formation fluids. If conditions are conducive to precipitation, radium will co-precipitate with the alkaline earth elements to form complex sulfates, carbonates and silicates. These precipitates are deposited in oil production equipment in the form of scale, sediment and sludge. Generally, higher water production results in increased NORM deposition.

The primary waste streams of concern are radium bearing scales and sludges, as well as equipment and soils impacted by NORM wastes. Selection of the most appropriate waste management alternatives needs to take into account the physical/chemical characteristics of the impacted materials.

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Characterization of Oilfield NORM

A significant amount of data characterizing oilfield NORM is available. Although the concentration of NORM in soil, scale and equipment is site specific, there are common characteristics associated with oilfield NORM.

The primary radionuclides of concern in petroleum industry NORM are Ra-226 and Ra-228. Total radium concentrations (i.e., Ra-226 plus Ra-228) in scales and sludges are quite variable. For scales, radium concentrations can range from undetectable levels to several thousand pCi/g.[2] For sludges, they can range from undetectable levels to several hundred pCi/g.[2] For both waste streams, extremely high concentrations (on the order of several hundreds of thousands of pCi/g) have been reported; however, such values do not appear to be statistically representative of petroleum industry NORM. [3,4]

Radium (Ra-226 and Ra-228), especially in the chemical form $Ra/BaSO_4$, present in oilfield NORM, is extremely insoluble. The EPA Toxicity Characteristic Leaching Procedure (TCLP) method has been used to determine the potential for leaching of radionuclides from solid material under simulated worst-case physical and chemical conditions. In real terms, these worst-case physical and chemical conditions could not occur at a NORM-impacted site and, therefore, are overly conservative for determining leaching potential. Nevertheless, results of the TCLP analysis of representative soil and scale samples demonstrate the highly insoluble nature of oilfield NORM.[5,6] Furthermore, these data indicate that default solubility values provided in standard radiation dose assessment codes are not appropriate, because they would tend to grossly overestimate the resulting potential radiation dose from water-dependent pathways.

Lead-210 (Pb-210) and polonium-210 (Po-210) are decay products of Ra-226. In the absence of site-specific data for oil production waste, it should be assumed that they are present at equilibrium concentration with Ra-226. However, in gas operations, Rn-222 is the predominate parent product from which elevated levels of Po-210 and Pb-210 may be present. Pb-210 is a beta emitter and Po-210 is an alpha emitter. Potential inhalation or ingestion of these radionuclides should be considered in any dose assessment or evaluation of waste management alternatives.

Rn-222 is the progeny of Ra-226 and a naturally occurring radioactive gas that is generated within the material matrix. The transport and release of radon from the material into the air is limited by the tightly bound crystalline lattice structure of the scale. Actual measurements of airborne concentrations of radon in NORM-impacted sites have shown that in areas having elevated concentrations of Ra-226, radon

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concentrations are often indistinguishable from natural background radon concentrations.[7,8] Additional studies measuring radon emanation rates from NORM-impacted scales, soils, and sediments that were collected from several different sites have found values ranging from 0.02 to 0.22.[9,10] These values are relatively small when compared to the emanation fraction for a typical soil (e.g., 0.25).

Potential Health Impacts from Exposure to NORM

The health risk associated with radiation from NORM is similar to that presented by exposure to any ionizing radiation source. The risk depends upon many factors; among them are the length of exposure, the level of radiation, the general health of the exposed person, and whether exposure is internal or external. Implementation of basic industrial hygiene practices in oil field operations typically will reduce the potential for inadvertent exposure to NORM. In general, the greatest risks associated with petroleum industry NORM are related to potential long-term exposures to members of the general public associated with disposal of these materials. However, numerous studies have indicated that, in most circumstances, these risks, as well as those to workers, are *negligible*.

In the discussion papers that follow, references are made to specific studies evaluating potential radiological doses and risks associated with petroleum industry NORM. These references summarize the major conclusions of each study, as they are relevant to the discussion and provide a citation so that the reader might obtain a copy of the full report, if necessary. More detailed discussions of each study are beyond the scope of this report. It is strongly advised that in-depth reviews of these studies are warranted to support specific regulatory positions.

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II
EXEMPTION LEVELS OF OIL AND GAS NORM

Background

Exemption levels are specific levels or concentrations that determine which waste materials are subject to controlled management. In the absence of any federal regulation of NORM, many states have promulgated their own NORM regulations. To date, a total of six major oil and gas producing states have regulations or guidelines in place which provide exemption levels for release of land and equipment for unrestricted use.[1] Exemption levels are provided as: (1) exposure levels (in units of μR/h); (2) radionuclide activity concentration (in units of pCi/g); (3) surface contamination level (in units of disintegration per minute/ 100 cm^2); and (4) radon flux (in units of $pCi/m^2/s$). A summary of release criteria and exemption levels from existing NORM regulations and guidelines are shown in the attached Table.

In general, states have drawn upon existing standards and guidelines for similar waste-types in establishing release criteria and exemption levels for NORM. Several states have adopted a level of 5 pCi/g radium in the top 15 cm of soil as the exemption level for unrestricted release of land. A level of 15 pCi/g has also been adopted by most states as a standard for subsurface soil (i.e., soil at a depth greater than 15 cm). These same levels initially were promulgated by the U.S. Environmental Protection Agency for disposal and cleanup of uranium and thorium mill tailing sites in 40 CFR 192. The criterion of 5 pCi/g for surface soil is a health-based standard, established to limit exposure to gamma radiation. The subsurface criterion of 15 pCi/g was derived on the basis of cost and feasibility of detecting discrete caches of high activity material. Several states have established dual exemption levels for release of land dependent upon radon flux rates. Typically, the standard is 5 pCi/g of radium if the radon flux is 20 $pCi/m^2/s$ or higher and 30 pCi/g if the radon flux is below this level. This standard was based on the standard for radon established by the National Emission Standards for Hazardous Air Pollutants (contained in 40 CFR 192 and 40 CFR 61), a set of standards promulgated pursuant to the Clean Air Act and its amendments. Characterization of NORM waste (e.g., scale) generated by the oil and gas industry has indicated that the radon

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emanation fraction is on the order of a factor of ten lower than the emanation rate from typical soil or mill tailings and would typically be well below the 20 pCi/m^2/s limit.[2] As a result, in states that have established the dual exemption levels, the 30 pCi/g standard would be applied at almost all sites impacted by petroleum industry NORM.

With respect to exemption levels for loose wastes impacted by NORM (e.g., scale, sludge, and soil), states have established levels ranging from 5 to 30 pCi/g of radium. In about half of the states, the standard is either 5 pCi/g or 30 pCi/g, depending upon the radon flux rate; in two states, the standard is 30 pCi/g, and in the remaining states, the standard is 5 pCi/g. With respect to exemption levels for NORM-impacted equipment, most states have established a screening level based on external exposure levels. Typically this level is 50 μR/h including background; in one state (Mississippi) the standard is 25 μR/h above background. A few states have established an exemption level for contaminated equipment on the basis of surface activity levels. These levels vary from state to state, but are similar to guidelines provided in Nuclear Regulatory Commission Guideline 1.86[3] and U.S. Department of Energy Order 5400.5.[4] For these states, equipment is exempt only if a swipe sample is less than the designated count rate collected from a 100-cm^2 area (i.e., dpm/100 cm^2).

In April 1999, the Conference of Radiation Control Program Directors (CRCPD) released their final report, Part N, "Regulation and Licensing of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM)".[5] Exemption levels for any combination of Ra-226 and Ra-228 are set at 5 pCi/g, on the basis of experience with hazards associated with uranium mill tailings. Further, the CRCPD does not consider it appropriate to perform purposeful dilution in order to meet the exemption limit. The subcommittee on the other hand, believes that in some cases dilution is both the least expensive and the safest way to obtain concentrations below exemption limits.

Issues

Exemption Levels for NORM-Impacted Equipment

In most of the states, an upper gamma exposure rate of 50 μR/h, including background is designated for release of contaminated pipe and equipment. Surface

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activity levels for release of contaminated equipment and property have been put in place by some states, but the NORM Subcommittee believes that they are not necessary because gamma exposure criteria are sufficient for the oil and gas industry's releases. Surface activity levels are difficult and expensive to determine, provide little information regarding the potential for human exposure, and may be in conflict with the gamma exposure criteria. Additionally, many types of NORM contaminated material may not be suitable for collection of a 100-cm^2 swipe sample. Gamma exposure measurements are inexpensive and easy to perform, thereby simplifying the release procedure for pipe and equipment.

Exposure Limits and Health Risk

The upper limit for radiation dose to the public is an important consideration in regulating NORM. The National Council on Radiation Protection and Measurements (NCRP)[6] and the International Conference on Radiation Protection (ICRP) [7] recommend an upper limit on exposure to members of the public from man-made radiation sources of 1 millisievert (100 millirem)/year. This limit is an upper limit, designed to limit exposure of members of the public to reasonable levels of risk comparable with risks associated with other common sources. Both the NCRP and ICRP advocate application of the as low as reasonably achievable (ALARA) philosophy. By applying ALARA this limit should never be exceeded; expected doses would be much less than the limit.

The CRCPD Part N report states in Section N.5 that operations, use, or transfer of TENORM should be conducted in a manner such that a member of the public will not receive in excess of an annual total effective dose of 1 mSv/yr from all licensed sources, including TENORM. The calculated dose should not include doses from indoor radon. Release of TENORM for unrestricted use is also limited to a dose limit of 1 mSv/yr (or some fraction of), excluding natural background.

The NCRP has recommended remedial action levels for intervention at previously contaminated NORM sites. In Section 16 of Report 116, the NCRP stated that for exposures from natural radiation sources, "It is recommended that remedial action be undertaken when continuous exposures from natural sources, excluding radon, are expected to exceed five times the average background, or 5 mSv (500

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millirem)/year. Remedial action for radon should be undertaken when the total exposure to radon decay products for an individual exceeds an annual average of 2 working level months (WLM)."[6] The NCRP also cautions "Actions to reduce exposure should not be limited by or to the remedial action level and, following the ALARA principle, levels substantially below the remedial action level may be obtainable and appropriate."

The ICRP states that the dose limit, 1 mSv/y (100 mrem/yr), does not apply in the case of intervention (i.e., remedial measures).[7] Furthermore, the ICRP states "The need for and the extent of remedial action has to be judged by comparing the benefit to the reduction in dose with the detriment of the remedial work, including that due to the doses incurred in the remedial work." On the basis of these statements, the subcommittee recommends that NORM regulations have different standards for controlled practices and remedial activities.

Estimation of health risk from radiation doses is a controversial issue. The widely accepted model used to quantify risk from radiation exposure is the linear-no-threshold model. The underlying assumption of this model is that any radiation dose, regardless of the magnitude, will result in some adverse human health effect. The extent of health impact is linear with increasing dose and no threshold dose below which health effects are observed exists. However, this assumption is not supported by the available data collected which has shown that health effects have only been observed in humans at doses above 10 rem delivered at high dose rates. In January 1996, the Health Physics Society issued a position statement entitled "Radiation Risk in Perspective."[8] The society states that there is substantial scientific evidence that the linear-no-threshold model is an oversimplification of the dose-response relationship and results in oversimplification of the health risks in the low dose range. Below 10 rem, health effects are either too small to be observed or are non-existent.

Assessment Studies

Several dose assessment studies have been conducted to evaluate the potential human health impacts from handling and disposal of petroleum industry NORM. A list of relevant studies is provided in the attached List of Relevant Risk Assessment Studies. The extent of health impacts from exposure to NORM-contaminated materials is

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dependent on several factors including final disposition of the waste, applicable routes of exposure and exposure time. Higher potential doses have been estimated for disposal options that provide a small degree of isolation of the NORM (e.g., landspreading). Using information from available assessments, one could conclude that an exemption level of 10 pCi/g would be conservative (i.e., protective of the maximum exposed individual under the most restrictive end-use scenario) with respect to the 100 mrem/yr dose limit. Similarly, a level of 30 pCi/g would be adequately protective with respect to the 500 mrem/yr dose limit and the limit of 2 WLM for radon exposures. These estimates are based on protecting the maximally exposed individual who in many cases may not be realistic. For many foreseeable future scenarios, higher activity concentrations would still result in negligible impacts to human health. In many of the scenarios analyzed in the studies conducted to date, a level of 15 pCi/g would be protective.

Conclusions and Recommendations

The purpose of this issue paper is to provide state regulators with an overview of relevant information in order for them to make appropriate management decisions for NORM. The subcommittee believes that management of NORM wastes should be based on the recommendations of the NCRP. The cost of over-regulation would bear a tremendous burden on the industry, in-particular, small producers. Small producers in the industry are operating on a tight budget and many would not be able to absorb the costs of regulating at the levels mandated for other industries.

On the basis of the issues discussed herein and NCRP Report 116, the subcommittee believes that establishment of different standards for controlled (or licensed) practices and for remediation activities is warranted. For controlled, licensed practices, a screening level for release of contaminated pipe and equipment is appropriate. A screening level of 50 μR/h is consistent with the standard set by several major oil and gas producing states. This level is readily determinable in the field.

For loose waste materials (e.g., scale and sludge) involved in controlled practices, an exemption level of 15 pCi/g is reasonable. NORM waste generated by the oil and gas industry has been shown to have a much lower radon flux rate than waste

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generated from the uranium milling industry. Higher activity limits can be justified on a case by case basis, particularly when it can be demonstrated that the wastes will be managed in a manner that provides a high degree of isolation from humans and the environment.

For remediation activities, the NORM Subcommittee recommends an exemption limit of 30 pCi/g. Lower levels may be justified for some sites, and the need for remediation must be determined on a case-by-case basis. Consistent with the ALARA philosophy, the need for remediation should be justified on the basis of net benefit gained from the action as compared to the detriment incurred by the remedial action.

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Table
Summary of Existing Oil and Gas Producing States
NORM Regulations and Guidelines

State	Exemption Levels/ Release Criteria
Arkansas	**Equipment/Property:** ≤50 µR/h including background at any accessible point; and surface contamination below the following limits (dpm/100 cm^2): for U-nat., U-235, U-238, and associated products (including Po-210) except Ra-226, Th-230, Ac-277, and Pa-231: average of 5,000; maximum of 15,000; and removable of 1,000. for Ra-226, Ra-228, Th-230, Th-228, Pa-231, and Ac-227: average of 100; maximum of 300; and removable of 20. for beta-gamma emitters: average of 5,000; maximum of 15,000; removable of 1,000. **Soil/Material:** <5 pCi/g Ra-226 and/or Ra-228, and <150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 or Ra-228 above background averaged over the first 15 cm of soil below surface, averaged over 100 m^2, and ≤15 pCi/g averaged over subsequent 15 cm soil intervals.
Louisiana	**Equipment/Property:** ≤50 µR/h at any accessible point. **Soil/Material:** ≤5 pCi/g Ra-226 or Ra-228 above background, and ≤150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 or Ra-228 above background averaged over the first 15 cm of soil below surface, averaged over 100 m^2, and <15 pCi/g averaged over subsequent 15 cm soil intervals; or ≤30 pCi/g of Ra-226 or Ra-228 averaged over 15 cm depth increments, provided the total effective dose to individual members of the public does not exceed 100 mrem/yr.
Michigan (Guidelines)	**Equipment/Property:** ≤10 µR/h above background; and surface contamination below the following limits (dpm/100 cm^2): for alpha radiation: average of 100; maximum of 300; and removable of 20. for beta-gamma radiation: average of 5,000; maximum of 15,000; removable of 1,000. **Soil/Material:** ≤5 pCi/g Ra-226 above background **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 above background averaged over the top 15 cm soil layer, averaged over 100 m^2, and ≤15 pCi/g averaged over succeeding 15 cm thick soil layers.

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Table
Summary of Existing Oil and Gas Producing States
NORM Regulations and Guidelines

State	Exemption Levels/ Release Criteria
Mississippi	**Equipment/Property:** ≤25 µR/h above background at any accessible point; and ≤2000 dpm/100cm2 from accessible internal and external surfaces. **Soil/Material:** ≤50 microR/hr above background. **Unrestricted Transfer of Land:** ≤50 microR/hr above background at any discrete point; and ≤200 microR/hr including background at every 0.15 meter interval in five boreholes per acre or at least 3 boreholes per site location, one meter deep.
New Mexico	**Equipment/Property:** ≤50 µR/h including background; and removable surface contamination must be ≤1,000 dpm/100 cm^2. **Soil/Material:** ≤30 pCi/g Ra-226 above background, and ≤150 pCi/g of any other NORM radionuclide above background. **Unrestricted Transfer of Land:** ≤30 pCi/g Ra-226 above background in soil in 15 cm layers, averaged over 100 m^2.
Texas	**Equipment/Property:** ≤50 µR/h including background at any accessible point; and surface contamination below the following limits (dpm/100 cm^2): average of 5,000, maximum of 15,000, and removable of 1,000. **Soil/Material:** ≤30 pCi/g Ra-226 or Ra-228, and ≤150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤30 pCi/g Ra-226 or Ra-228 averaged over the first 15 cm of soil, averaged over 100 m^2.

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List of Relevant Risk Assessment Studies

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III

DISPOSAL OF NORM BY UNDERGROUND INJECTION

Background

Disposal of exploration and production (E&P) waste liquids, such as produced water and used drilling fluids, by injection into strata that are isolated from underground sources of drinking water, is a common practice. These wells are regulated as Class II wells under the Underground Injection Control (UIC) program of the federal Safe Drinking Water Act. Underground Injection Control regulations do not preclude the injection of oil and gas wastes that contain NORM. Since NORM is known to be a component of produced water, injection has always included NORM as a component of E&P waste.

Oil and gas waste disposal wells are either converted production wells that have been recompleted in a formation that does not contain oil or gas or are drilled and completed specifically for disposal. Wells that inject E&P liquids are operated at pressures below the fracture pressure of the formation and force liquids into the formation matrix. Although NORM wastes are typically solids and occur as scale, sand, silt, sludge and contaminated soil, solids can be crushed, ground and otherwise processed and treated and then entrained with liquid wastes to an injectable slurry that will not plug the formation.

To inject NORM wastes that contain a relatively high concentration of solids, wells must be operated at pressures that cause the formation to fracture. Depending on the depth and geology, fractures can be horizontal or vertical. "Fracture injection" to dispose of wastes is not common and is not authorized by many regulatory agencies. Adverse environmental impact is a concern should the waste not be confined to the disposal interval. However, studies have shown that fracture azimuth and length can be predicted and monitored to ensure waste containment,[1] and that repeated injections could be carried out that allows the injection of large volumes of waste.[2]

Although disposal wells are numerous in all oil and gas producing states, few states have allowed disposal by injection of E&P NORM waste.[3] For example, Texas, which had 8,099 active disposal wells as of December 1998, has permitted only seven wells for the disposal of NORM wastes since 1995. Additionally, Louisiana has permitted only one disposal well for E&P NORM waste disposal, and the well is reserved for noncommercial purpose only.[4]

NORM disposal by injection has the potential to dispose of more than 100,000 barrels of waste in a single well, depending on the geologic characteristics of the

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formation. When a well is abandoned, it may be plugged under the standards for disposal wells with no special requirements necessary as a result of NORM injection.

According to one study, the cost to dispose of E&P NORM waste varied greatly.[5] The cost of NORM injection is increased significantly above the cost of other E&P wastes due to treatment and processing, handling and decontaminating containers, and laboratory analyses. Nevertheless, the report indicates that NORM injection is cost competitive with other NORM disposal alternatives.

Issues

Public Notice

The disposal of E&P wastes by injection requires notice under the Underground Injection Control regulations. The actual notice requirements vary from state to state due to the flexibility allowed for state-delegated programs for Class II (oil and gas related) injection wells. Because NORM-impacted material is a component of E&P wastes, it could be problematic whether or not notice should be specifically required for E&P NORM waste because of public concerns regarding radioactive materials.

Nevertheless, the injection of NORM wastes, particularly at commercial disposal wells, is a continuous activity that includes the handling and management of large volumes of NORM waste. In fact, two large commercial NORM injection facilities have operated for years without incident nor have their operations generated significant public concern. Notice requirements, if any, should be consistent with existing state law.

Fracture Injection

Disposal at pressures that cause formation fracturing might be prohibited by some state regulatory programs due to environmental concerns although offshore and pilot projects indicate that controlled fracturing and fracture monitoring is possible. The regulatory posture toward fracture injection is an issue that is still subject to debate and will need to be considered if the disposal technology will be applied to NORM waste.

Risk Associated with the Disposal of NORM by Injection

One report concluded that the estimated doses associated with injection appear to be so low that the risk to the public is negligible.[6] A groundwater flow and contaminant transport model were used to model injection of NORM. Using conservative assumption doses from ingestion of groundwater, that related to injection

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well failures at various calculated depths. In the base-case scenario in which the casing failure occurred near the bottom of the aquifer, the model predicted a dose equivalent to 0.01 mrem/yr when the receptor water well was 0.3 km downgradient from the injection well.

In the model, no attempt was made to determine the well types, injection pressures or rates. A volume of 100,000 barrels of NORM with a concentration of 2,000 pCi/L was assumed to have exited the well casing at various depths in geologic layers. Therefore, the model is applicable to both matrix and fracture injection.

A related study of the injection of NORM into salt caverns also concluded that this disposal option presented negligible risk to the public.[5] Even in the worst-case scenario, in which the cavern roof failed and the NORM was released into a shallow drinking water aquifer, the potential lifetime dose to the receptor was only 1×10^{-8} mrem.

Conclusions

Injection of slurries or solids containing NORM-impacted materials presents a low risk disposal alternative for oilfield wastes that occur as particles or have been treated and processed to injectable size. Injection wells are capable of disposing of large volumes of such waste at costs that are comparable to other disposal alternatives. Regulatory controls are in place through underground injection control programs to accommodate the disposal of E&P NORM wastes into conventional disposal wells. Public notification specific to NORM injection activities should be considered. Review of regulatory requirements for fracture injection and cavern disposal of NORM waste is warranted.

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IV
DISPOSAL OF NORM IN ABANDONED WELLS

Background

An oil or gas field well that is being plugged and abandoned could provide a repository for NORM-contaminated tubulars or other material. NORM-contaminated equipment that is deteriorated to the degree that it is no longer usable has no value as scrap or is not accepted as scrap, or cannot be easily decontaminated, also could be disposed of in an abandoned well if allowed by state regulations. Abandoned wells also could host NORM-contaminated solids such as tank bottoms or contaminated soils. Louisiana, Michigan, Mississippi, New Mexico and Texas have regulations for the encapsulation of NORM in plugged and abandoned wells.[1]

Historically, in response to favorable economic conditions or technical developments, plugged and abandoned oil wells have been reopened and returned to production or recompleted in a different zone in response to a new oil or gas discovery. Abandoned wells that encapsulate NORM negate such opportunities.

A limiting factor is the small capacity of a wellbore. Ordinarily, well production casings are 4 ½ or 5 ½ inches in diameter and can accommodate only a single string of tubing and only a few hundred cubic feet of NORM solids.

The expense of placing NORM into a well during plugging operations substantially raises costs. In part, increased costs are caused by increased rig time. Costs also involve preparing the material for disposal and regulatory compliance. One study found that the cost of NORM disposal by plugging and abandonment tended to be higher than for other options.[1]

The cost might limit this disposal alternative. A survey by the Railroad Commission of Texas in 1996 found that very few requests for NORM plugging and abandonment were received. The Louisiana Office of Conservation also observed a decline in request for NORM plugging and abandonment in the year 1996.

Issues

Type of NORM Material

Although the disposal of NORM by encapsulation in a plugged well is more conducive to the disposal of NORM contaminated tubulars and other small pieces of equipment, the placement of other wastes such as tank bottoms and soils inside

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tubulars or mixed with drilling mud and placed between cement plugs is a possibility and is allowed by some states (e.g. Texas).

Public Notice

Disposal of NORM into a plugged well is a one-time, volume-limited operation, which should be weighed when considering public notices. If all of the waste was generated on the same tract where the disposal will occur, then notice might be unnecessary. In any event, notice requirements should be consistent with state law and landowner consent.

Well Identification/Recordation

The encapsulation of NORM in a plugged well is assumed to be permanent; however, the possibility of intrusion and inadvertent exposure must be minimized by institutional controls. These should include red-dyed cement in the surface plug; a three-bladed radiation symbol welded to the top casing plate; notation on the plugging record; and deed recording.

Risk Associated with Placement of NORM in a Plugged and Abandoned Well

A Department of Energy (DOE) study concluded that the estimated doses associated with downhole encapsulation appear to be so low that the risk to the public is negligible.[2] To model the risk related to downhole encapsulation, it was assumed that a casing failure occurred and a 100,000-barrel volume of 2,000 pCi/L radium dissolved instantaneously. It then moved horizontally into a porous formation or vertically along the wellbore. The model, which was also used to estimate the dose risk related to injection, overstates the volume by a factor of 100 for a typical well, assumes the material will be fluid, and is capable of migrating from the wellbore. Even in the worst-case scenario when a casing failure occurred at the same depth as the receptor, a water supply well located 0.3 km downgradient, the equivalent dose concentration to the person who ingested the water was approximately 1 mrem/yr. In realistic scenarios, the risk to the public certainly appears negligible, being several orders of magnitude lower than the worst-case scenario.

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Conclusions

Encapsulation of NORM materials in a well that is being plugged and abandoned presents a low risk to the environment, particularly for oilfield tubulars that are no longer usable due to deterioration and have little or no value as scrap metal. To a lesser degree, other small pieces of equipment and very small volumes of sand and sludge can be placed in plugged wells. Volume limitations and cost are limiting factors, along with deed restrictions.

Appropriate regulatory controls for NORM encapsulation could be effected in conjunction with the plugging and abandonment rules of the regulatory agency.

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V
LANDSPREADING

Background

Landspreading is a long-standing method used to dispose of a wide variety of nonhazardous E&P wastes* containing hydrocarbons, including drill cuttings, produced solids, tank bottoms, pit bottoms, waste crude, pipeline scales and sludge, and pigging wastes. In general, landspreading represents one of the least expensive methods for disposing of hydrocarbon-bearing wastes. It also is used frequently for *in situ* remediation of soils contaminated by spilled hydrocarbons

Landspreading is a relatively simple process that depends on the availability of oxygen, water and bacteria naturally present in the soil to break down the hydrocarbon components of a waste stream. Sometimes the practice entails nothing more than spreading the waste over a tract of land using standard earth-moving equipment. Tilling the waste into the soil and adding water and/or fertilizers (e.g., nitrogen-rich manure) will accelerate the biodegradation process.

Most often, landspreading occurs on lease sites at or near the point of waste generation, but wastes also are transported to centralized, noncommercial landspreading or to commercial landspreading facilities. Regulations governing landspreading vary from state to state with respect to permit requirements, application restrictions, siting restrictions and final treatment levels. Often, landowner notification or permission also is required. The intent of these regulations is to limit the potential for environmental contamination and to minimize the impact to the landowner.

Texas and New Mexico allow the landspreading of NORM on-site. In Texas, an application for a commercial landspreading facility can be permitted by the Railroad Commission under specific conditions. In both states, landspreading of NORM-impacted wastes is allowed provided that, after landspreading, the state's respective radium exemption level is met (5 pCi/g radium-226 and radium-228 above background in Texas and 30 pCi/g Ra-226 above background in New Mexico).

In Texas, landspreading of NORM waste is allowed without a permit on the lease site where the waste was generated, provided the resultant radium-226 and radum-228 concentration in the soil is ≤5 pCi/g above background levels [16 TAC 3.94(e)(2)(A)].

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* Nonhazardous E&P wastes include wastes that are exempt from regulation as hazardous waste under the Resource Conservation and Recovery Act (RCRA) and related state statutes and nonexempt wastes that are not listed as hazardous and do not exhibit any hazardous characteristics.

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Off-site surface disposal of NORM is allowed in Texas provided the same concentration standards are met and a permit is obtained [16 TAC 3.94(g)].

In New Mexico, in accordance with requirements contained in the NORM regulations promulgated by the Environment Department [Title 20, *New Mexico Administrative Code (NMAC)*, Chapter 3, Part 1, Subpart 14, Section 1407(A)], on-site surface disposal of NORM-contaminated soils is allowed provided a license and a Subpart 13 permit are obtained, and the operator complies with the requirements of Oil Conservation Division (OCD) Rule 711 that govern surface waste management facilities. Under this regulation, licensees may blend or disk NORM-contaminated soil in place, provided the soils at the site were contaminated with NORM prior to promulgation of the regulation (i.e., August 3, 1995) and provided the exemption standard for Ra-226 in soil of 30 pCi/g above background is not exceeded. Under 19 NMAC 15.I.714(c)(1), the NORM disposal rules promulgated by the OCD, disposal is allowed at centralized surface waste management facilities, provided it is disposed of in a manner that is protective of the environment, public health and fresh waters. The OCD further requires that the facility must operate under a Rule 711 permit.

Risk Assessment Results

Potential doses associated with landspreading of NORM-impacted wastes have been assessed for both workers and the public.[1-3] Although these studies use different methodologies and draw different conclusions about specific analyses, they indicate that landspreading presents negligible risk to workers and the public under many circumstances. The two primary factors, which determine the level of potential exposure, are radium concentrations in the soil after landspreading and future use of the land (i.e., whether the property will be used for recreational, agricultural, industrial or residential purposes). Potential exposures do not appear to be of concern for workers or future recreational or agricultural users of the property even when the resultant radium concentrations after landspreading are quite high (i.e., several hundred pCi/g).[3] One study[3] indicated that for future industrial or residential users, potential exposures are variable depending on radium concentration, construction practices (e.g., degree of re-grading or excavation of surface soils), and on-site erosion rates.

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Conclusions

Landspreading can be a disposal option if appropriate regulatory controls are established. One risk assessment[3] indicates that for certain circumstances, landspreading of NORM can result in elevated radiation doses to future residential inhabitants. State agencies could consider authorizing on-site landspreading provided the radium concentration after landspreading does not exceed the state's NORM exemption level and land owner permission is obtained. For any off-site NORM landspreading, public notice of a NORM disposal application would be appropriate.

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VI
LANDFILL DISPOSAL

Background

The design and operation of all permitted solid waste landfills are governed by requirements contained in the Resource Conservation and Recovery Act (RCRA). Under RCRA, solid waste includes any discarded, abandoned, recycled or inherently waste-like material. Hazardous wastes include solid wastes that are listed as hazardous by either the EPA or a corresponding state agency and wastes that exhibit any of four hazardous characteristics (i.e., ignitability, corrosivity, reactivity, and toxicity). Nonhazardous wastes are solid wastes that are not listed, do not exhibit a hazardous characteristic or are not otherwise exempted. Radioactivity in solid wastes is not regulated as hazardous under RCRA. Solid waste landfills generally are divided into hazardous and nonhazardous categories referred to as Subtitle C and Subtitle D landfills, respectively, after the classification established in RCRA. Subtitle C of RCRA (in 40 CFR, Part 264) contains requirements for the management and operation of hazardous waste landfills and Subtitle D (in 40 CFR, Parts 257 and 258) contains requirements for the management and operation of nonhazardous waste landfills.

The U.S. Environmental Protection Agency (EPA) established these federal regulations as standards for states to adopt in their solid waste management programs. They address the location, design, construction, operation, monitoring and closure of solid waste landfills. Individual states that have been granted authority to operate Subtitle C or Subtitle D permitting programs may adopt the federal regulations by reference, or they may promulgate their own regulations. State regulations must be at least as stringent as the federal regulations before the EPA will grant permit program approval. Classification schemes for nonhazardous waste landfills vary from state to state and often establish more distinctions between types of landfills than are included in the federal rules.

Regulations Governing Disposal of NORM in Landfills

Under existing state regulations, provisions for disposing of NORM-impacted wastes in commercial landfills are limited. Exempt E&P wastes refer those exempted by the EPA and most state agencies from regulation as hazardous.[1] While most states allow the disposal of exempt E&P wastes in commercial landfills, only a few explicitly allow or prohibit the disposal of NORM-impacted wastes in landfills. Michigan has issued guidelines for the disposal of materials containing up to 50 pCi/g of Ra-226,

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including petroleum industry NORM, in municipal nonhazardous waste landfills. Most of the wastes going to municipal landfills are from households, although small quantities of other types, including hazardous wastes, also may be disposed of in a municipal landfill. Standards specific to municipal landfills are contained in 40 CFR 258; under federal rules, these standards are more stringent than the standards for other types of nonhazardous landfills. In Louisiana, E&P wastes containing up to 30 pCi/g Ra-226 or Ra-228 may be disposed of in permitted nonhazardous oilfield waste facilities. Other states may allow the disposal of petroleum industry NORM in Subtitle C or D landfills; however, such disposal may require special approval and is likely to be evaluated on a case-by-case basis.

State approval for the disposal of radium-bearing wastes in landfills has some precedent at the federal level. In June 1994, the EPA issued its *Suggested Guidelines for the Disposal of Drinking Water Treatment Wastes Containing Radioactivity*.[2] Although these guidelines are not applicable to petroleum industry NORM wastes, the radionuclides addressed by the guidelines include Ra-226 and Ra-228, and some of the water treatment NORM wastes are similar in generation and concentration levels to the petroleum industry's NORM wastes. As a result, the risk-based disposal guidelines for radium-bearing wastes have some relevance to disposal issues facing the petroleum industry.

Colorado, which does not have a NORM regulatory program, has adopted regulations governing the disposal of drinking water treatment wastes containing NORM. Water treatment sludge containing up to 40 pCi/g total alpha activity may be disposed of at a nonhazardous, solid waste disposal facility, provided there are no free liquids present in the sludge, its pH is $\geq$6, and the landfill meets specific operating and monitoring requirements (6 CCR 1007-2, Section 12). Under Colorado regulations it is possible that other wastes falling below this 40 pCi/g threshold, including petroleum industry NORM, also are disposed of in nonhazardous landfills. No other states appear to have adopted similar regulations.

Under the suggested EPA guidelines, NORM-impacted wastes containing between 3 and 50 pCi/g of total radium could be disposed of in both nonhazardous and hazardous landfills. Specifically, the EPA recommends disposal methods that "...provide reasonable assurance that people will be protected from radon releases from the undisturbed waste and that the waste will be isolated to reduce the risk of disturbance or misuse." The EPA further recommends that construction of a building on a disposal site containing Ra-226 wastes be avoided or, at least, any such buildings should not be used for residential or commercial purposes. Although the guidelines do

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not specify the measures needed to achieve these goals, they indicate that the disposal facility should be in compliance with RCRA Parts 257 and 258, (i.e., the regulations governing design, construction, operation and monitoring of nonhazardous landfills) and that requirements for hazardous waste facilities (such as those contained in RCRA Part 264) be considered to ensure adequate groundwater protection. For wastes containing between 50 and 2,000 pCi/g of total radium, the EPA recommends that disposal decisions be made on an individual basis. At a minimum, the EPA recommends disposal of these wastes in a RCRA hazardous waste unit. The EPA also recommends that wastes within this concentration range be considered for disposal at a licensed NORM or low-level radioactive waste disposal facility. When the concentration exceeds 2,000 pCi/g of total radium, the EPA recommends disposal in accordance with the provisions of the Atomic Energy Act for source materials.

Risk Assessment Results

Assessments of risks relating to disposal of petroleum industry NORM in Subtitle D landfills (i.e., landfills permitted to receive primarily nonhazardous wastes) have been conducted.[3,4] These studies evaluated potential doses to workers and the public associated with the disposal of solid wastes containing 50 pCi/g of Ra-226. Different assumptions were made regarding the volume of NORM waste being disposed of, the size of the landfill, the placement of the NORM waste within the landfill and landfill design and performance. Both studies conclude that potential doses to workers associated with landfill NORM wastes are negligible. Estimates of doses to residents living near the landfill during the disposal action also are negligible.[4] Similarly, for most future land use scenarios (i.e., residential, industrial, recreational and agricultural), potential doses to the public are well below 100 mrem/year, even when it is assumed that landfill liners and covers are breached. Under a few circumstances, potential doses to the public could be of concern; however, states can control these circumstances to prevent any public exposures. These controls might need to address the total volume of Ra-226 placed in any single landfill and/or cell, the depth of the NORM wastes with respect to the landfill cap and institutional controls protecting the integrity of the landfill cap and liner.

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Conclusions

State-level NORM oil and gas regulatory programs should consider the disposal of nonhazardous solid wastes containing up to 50 pCi/g Ra-226 in either nonhazardous or hazardous landfills. In addition, states should consider the landfill disposal of waste streams containing higher concentrations, up to 2,000 pCi/g Ra-226, in hazardous waste landfills. State agencies promulgating NORM rules would need to coordinate the acceptance of these types of disposal with the agency that regulates solid waste disposal.

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VII
DISPOSAL OF NORM BY RE-MELTING

Background

Although NORM-impacted scrap metal generated by the petroleum industry currently is not disposed of by re-melting, this form of recycling could represent a viable disposition option for this waste stream. However, the scrap metal recycling industry faces a myriad of issues making it difficult to accept NORM-impacted materials at its facilities. Until these issues can be resolved, re-melting of the petroleum industry's NORM-impacted scrap metal is unlikely to become a widespread practice.

Scrap metal recycling is an important industry in the United States, providing a significant portion of supply of all types of metal.[1] While domestic steel consumption has declined over the last two decades, the scrap metal share of the iron and steel market has increased.[2] In 1997, scrap metal processors handled about 66 million to 70 million metric tons of scrap iron and steel,[3,4] of which approximately 46% was comprised of obsolete scrap (i.e., worn out, broken and discarded objects).[4] Recycled ferrous scrap made up approximately 72% of the country's raw steel production in 1997,[4] up from around 33% in 1980.[2] The international market for scrap metal recycling also is significant, with industrialized nations exporting scrap metal to developing nations as demand and business conditions dictate. In 1997, the U.S. exported approximately 8.9 million metric tons of ferrous scrap, having an estimated value of about $1.3 billion.[4]

These statistics reflect the fact that iron and steel scrap are vital raw materials for the production of new steel and cast iron products.[4] Recycling of scrap metal has become increasingly significant for several reasons. From an environmental perspective, recycling of scrap metal has become important because re-melting scrap (1) requires much less energy than the production of iron or steel products from iron ore; (2) reduces the burden on landfill disposal facilities; (3) prevents the accumulation of abandoned steel products in the environment; and (4) avoids environmental damage resulting from replacement of the scrap metal through raw material production.[1,4] Because recycling scrap reduces the need to mine and process raw iron ore, health risks associated with mining and refining the metal (i.e., occupational injuries) also would be reduced.[1] From a technological perspective, recycling of scrap metal has become more significant with the proliferation of electric arc furnaces (EAFs), particularly through growth of the "mini-mills" that target specific markets.[5] EAFs use nearly 100% scrap iron and steel for the furnace charge, as opposed to basic oxygen furnaces (BOFs), which use approximately 30% scrap, and open-hearth furnaces, which

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use around 50% scrap.[1] In the first half of 1998, EAFs consumed almost 70% of all recycled ferrous scrap,[6] up from only 37% in 1990.[1]

The scrap metal recycling industry generally will not accept any scrap metal that is radioactive. A specialized metal recycling segment of the radioactive waste handling industry does recycle radioactive scrap metal, generated by the U.S. Department of Energy and the nuclear power industry. While thousands of tons of this metal have been recycled within these sectors, very little has been smelted and recycled for public use.[1] These facilities have the capacity to handle a portion of the potential inventory of NORM-impacted scrap generated by a variety of industries, including the petroleum industry.

The reasoning behind the scrap metal recycling industry's reluctance to process radioactive scrap is understandable. In the past, there have been instances in which facilities have been contaminated by inadvertent re-melting of radioactive sources.[4,7,8] Most of these incidents appear to have involved sealed radioactive sources, such as Cs-137 level gauges, Co-60 therapy devices, and radium devices. Losses resulting from decontamination, waste disposal and lower profits reportedly have ranged from $7 million to $23 million per incident. To protect themselves from such losses, most metal recyclers have installed radiation detection systems to screen radioactive scrap. Usually, shipments found to contain radioactive material at any level are rejected and returned to the supplier. If possible, when a sealed source is involved, it is confiscated.

None of these documented incidents of facility contamination has involved scrap metal containing NORM; nonetheless, NORM-impacted scrap frequently is rejected by radiation detection systems and returned to the supplier.[7,8] According to estimates by the American Petroleum Industry (API), approximately 600,000 tons of NORM-impacted scrap are generated annually by the oil and gas industry, 75% of which would be rejected by the scrap recycling industry based on the use of radiation detection systems.[9,10] Prior to the installation of these systems in the late 1980s, NORM-impacted scrap was routinely processed by the metal recycling industry.

Radiological Risk Associated with Re-Melting NORM-Impacted Scrap

Several studies[11,12] have indicated that re-melting of equipment containing radium-bearing materials presents minimal risk to the public, and that risk to workers can be controlled. Bench-scale tests funded by the Petroleum Environmental Research Forum (PERF)[11] indicated that during the re-melting process, approximately 98% of the Ra-226, Ra-228 and Th-228 was recovered in the slag generated during re-melting. The

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partitioning of Ra-226 to the offgas was calculated to be 0.0004%. Partitioning of Pb-210 and Po-210 were inconclusive.

On the basis of these measurements, estimated potential radiological doses to the public from airborne emissions, exposure to recycled metal or exposure to recycled slag are negligible.[12] Potential radiological doses to workers involved in the transportation, loading and unloading, re-melting and fabrication of the NORM-impacted scrap and resultant metal also are negligible if the NORM level of the feed is controlled.[12]

Recycling Industry Concerns

While re-melting of NORM-impacted scrap is technically feasible and presents little risk to human health and safety, there are several issues that must be addressed before metal recyclers will accept NORM-impacted scrap on a widespread basis. These issues are tied to either regulatory or economic constraints, or both. For the most part, economic constraints have not been quantified; however, the recycling industry can predict some degree of cost impact.

There are five primary areas of concern.[13] One relates to segregation of the inbound feed material. Using the fixed load detectors currently installed at most facilities, it is not possible to identify specific types of radioactive contamination (i.e., a Cs-137 sealed source versus Ra-226 in pipe scale). Portable multi-channel analyzers could be used to identify specific radionuclides; however, recyclers would not be able to distinguish between discrete NORM (e.g., Ra-226 sealed source) and diffuse NORM (e.g., Ra-226 in pipe scale) without taking numerous individual measurements from each shipment that trip the detector's alarm. These limitations might make it difficult for the industry to cost-effectively segregate out larger sources of radiation from scrap containing NORM.

A second concern is that in order to process radioactive materials, a recycling facility might be required to obtain a license under Nuclear Regulatory Commission (NRC) and state regulations, unless specific exemptions were granted. These licenses would require extensive radiation safety programs to ensure that feed streams and discharge effluents are within established regulatory limits. The expenses associated with obtaining a license and implementing the required radiation safety programs might be prohibitive for the scrap recycling industry. For the most part, regulators have made no exceptions to these requirements for facilities that would process NORM-impacted scrap, even though the generators of the NORM-impacted scrap are not subject to such

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regulation. In Texas, a few mills have received regulatory approval to melt small quantities of NORM-impacted pipe.[5]

A third concern is the need to comply with existing, proposed or evolving volumetric standards for radioactivity in metal intended for "free release." These standards are being established to address nuclear industry materials, not petroleum industry NORM; however, the recycling industry has no regulatory guidance or other basis for making this distinction. Three countries currently have volumetric standards for total radioactivity in metal: 1) in Germany, the standard is 1 Bq/g (27 pCi/g); 2) in Sweden, the standard is 0.1 Bq/g (2.7 pCi/g); and 3) in Great Britain, the standard is 0.4 Bq/g (10.8 pCi/g).[13] In addition, the International Atomic Energy Agency has recommended an international standard of 0.3 Bq/g (8.1 pCi/g).[14] National standards for volumetric contamination of metals are being considered by a number of agencies, including the NRC, U.S. Environmental Protection Agency, Conference of Radiation Control Program Directors, and American National Standards Institute. However, proposed regulations probably are several years away. Exceeding standards of this nature could limit the potential market for re-melted steel by preventing its "free release" for unrestricted use. To ensure these standards are met, recyclers would need to accurately measure the total activity level of each batch entering the smelter and would need to know with certainty how much of the radioactivity would remain after re-melting. Given the technological constraints on characterizing inbound feed material discussed above, it is hard to predict how difficult and costly it would be to consistently meet these standards or verify compliance.

A fourth concern is the potential radioactive contamination of baghouse dust and slag, byproducts of the re-melting process that have commercial value. Scrap metal recyclers are concerned they will have fewer disposition options for the baghouse dust and slag if they have a radioactive component.

A fifth concern is that steel recyclers sell their product to consumers who have a strong phobia of and bias against radiation and radioactivity. If recyclers see a risk that they might lose market share by being labeled as a "radiation" site, they might refuse to process any material suspected of being contaminated. Given the current stigma of radiation, this scenario is quite possible.[15]

Alternative Disposal Options for NORM-Impacted Equipment

The inventory of NORM-impacted scrap metal generated by the petroleum industry each year must be handled in some fashion. Decontamination of the equipment is one option. While decontamination presents negligible risk to workers and the

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public,[12] it might not be a suitable alternative for a significant portion of the scrap metal inventory. Pipe, tubing and storage vessels can be decontaminated with some effort; however, a large portion of the scrap inventory consists of small items that cannot be easily cleaned (e.g., filters, and valves). Much of the rest of the inventory includes obsolete, worn out items that have no future use; cleaning these items before final disposition could be economically prohibitive.

Disposal of NORM scrap metal as low-level radioactive waste at a licensed facility is expensive. Given that the nation's current disposal capacity for low-level radioactive wastes is limited, from a policy perspective, it may make sense to reserve this capacity for that category of wastes, particularly if alternative disposal options for NORM materials are adequately protective of human health and the environment.

If the NORM scrap inventory is not recycled, production of additional raw steel will be required. Health risks and environmental impacts associated with replacement of the metal (i.e., those associated with mining, refining and smelting iron ore)[1] are greater than those associated with re-melting NORM-impacted scrap.[12]

Conclusions

From a health risk-based perspective, re-melting of NORM-impacted equipment appears to be a viable recycling option. As a result, within their NORM regulatory programs, states should consider the re-melting of petroleum industry equipment containing NORM at a level greater than the exemption level defining regulated NORM.

However, oil and gas regulators and the petroleum industry must recognize that a myriad of issues prevents re-melting of NORM-impacted scrap metal on a widespread basis. Before this recycling option can become widely available to the petroleum industry, numerous complex regulatory and economic issues must be addressed. The debate over this topic is occurring on both a national and international level and is not likely to be resolved quickly.

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VIII
NORM SURVEY METHODOLOGIES

Purpose

This section provides general guidance for NORM survey methodologies, such as instrument selection, calibration, and specific survey techniques that may be used to measure NORM. This guidance does not represent the only correct way to survey for NORM impacted materials or equipment. New advances in instrumentation and survey methods occur continuously and state NORM rules should have sufficient flexibility to accommodate new and improved techniques as they are developed.

All of the information presented in this section, except where otherwise noted, have been derived from the API's *Bulletin on Management of Naturally Occurring Radioactive Materials (NORM) in Oil & Gas Production*.[1] Several states have developed NORM survey protocols that should be considered as additional guidelines. In addition, some examples of comprehensive survey protocol and methodology documents have been included in the references to this section.[2,3]

Types of NORM Surveys

NORM surveys in oil field operations generally involve detecting NORM deposits that have accumulated in production and processing equipment or have impacted the soil surface from a release or specific waste handling practices. The type of survey that is conducted can vary depending upon the purpose of the survey and the particular type of NORM material and radiation being measured. As an example, if all a survey is required to do is determine if some NORM material is inside a process vessel, a simple external screen with a scintillation detector will usually be sufficient. If a survey is being performed to determine if a NORM impacted piece of property (land) may be released back to the general public, a more detailed survey including soil samples may be required. Typical NORM surveys involve measurements of the following:

- Gamma levels from external equipment surfaces;
- Gamma levels from accumulations of scale and sludge;
- Gamma levels from soil and/or soil impacted by NORM;
- Alpha or beta radioactivity contamination levels on external and internal surfaces;
- NORM concentrations in media such as soil, scale and sludge, and water.
- Personnel external radiation exposures;
- Personnel internal exposure due to airborne radiation; or
- Various combinations of the above.

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Gamma Surveys from External Equipment Surfaces

Survey instruments commonly used for the detection and measurement of NORM are instruments equipped with a one- or two-inch sodium iodide scintillation detectors. These usually are specific to gamma radiation, and will not detect either alpha or beta radiation.

Production equipment, particularly water-handling equipment, should be surveyed for external gamma radiation emissions. In addition, equipment being removed from service, released for maintenance work, or released for unrestricted use (e.g., sold or scrapped) should be surveyed for NORM.

Each piece of equipment should be systematically surveyed. Background gamma radiation levels should be recorded in a close-by area not impacted by NORM. This will help the surveyor detect deposits related to NORM. Typical background gamma radiation levels range from 1-2 μR/h offshore and 3-15 μR/h on land. The surveyor should pay particular attention to areas where solids may accumulate, such as pipe elbows. The meter probe should be in close proximity with the external surface of the equipment (normally not more than 1 centimeter away) and moved slowly across the equipment surfaces. Equipment NORM readings exceeding 50 μR/h, including background or other state regulatory levels, should be identified for further evaluation or marked as containing NORM.

> NOTE: The steel walls of equipment and pipe significantly attenuate the gamma radiation that may be emitted from NORM deposits, the amount of attenuation being proportional to wall thickness. Exposure rate measurements obtained in contact with the scale and sludge deposits after removal from equipment will typically be higher than would have been measured at the external surfaces of equipment before removal of the material. Equipment whose external readings measured less than 50 μR/h may contain deposits whose readings would exceed that level if removed.

Gamma Radiation from Accumulated Scale and Sludge

The same survey instruments used for surveying equipment may be used to survey accumulations of scale and sludge. Typically, when NORM scale is removed from tubulars or pipes, or NORM sludge is removed from vessels and tanks, the material is accumulated in drums. Although the NORM activity level remains essentially unchanged, gamma radiation levels may increase significantly due to the consolidation of the deposits. In some cases these levels may be high enough to trigger specific storage and handling requirements per state radiation protection regulations. In addition

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to scales and sludges, workover fluids are subject to becoming NORM-impacted, by incorporation of NORM-impacted scale or sludge particles.

Gamma Radiation from Soil

Soil may become NORM-impacted as a result of various past and current production and maintenance operations, such as equipment cleanout, tubular descaling, produced water pits, and landfarming of tank bottoms.

Soil surveys should be done in a planned systematic manner to avoid unnecessary expense and ensure adequate site characterization. Soil surveys may also use the same type of survey meters used for equipment measurements. Typically the survey instrument probe should be held within a centimeter or two above the ground while conducting the surveys. The survey should be conducted over the subject land area on a delineated grid. The grid spacing should be optimized for the size of the area to be surveyed, as well as for the potential for identifying areas with elevated readings; the smaller the area to be surveyed, the smaller the grid spacing. Some regulatory agencies require that grid spacing not exceed 10 meters (~30 feet). Specific details of the grid survey such as grid size and sample location within the grid should be documented.

Areas exhibiting elevated readings may be identified for sampling and marked. To determine representative activity levels, soil samples should be collected from areas exhibiting gamma radiation levels exceeding 50 μR/h above background, or lower as dictated by some state requirements. The soil samples may either be analyzed onsite (if adequate instrumentation is available on site) or shipped to a qualified laboratory for analysis based on laboratory recommended sampling protocol. Reasons for soil sampling include, determining compliance with state exemption limits prior to release, before the sale or purchase of the lease and to characterize the existing NORM impact on a site. Background soil samples should be collected from a nearby non-NORM impacted area of the site to document the existing soil background levels for total radium.

Alpha/Beta Radioactivity Levels on External and Internal Surfaces

Survey instruments commonly used to detect alpha/beta levels in external and internal surface surveys are different than those used for gamma survey work. Usually, a count rate meter equipped with an alpha or an alpha/beta probe is used. The readings from these meters are usually recorded in units of counts per minute (cpm). These

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readings are then converted by a factor depending on the meter used for comparison to a specific exemption limit. (i.e. 1000 dpm per 100 cm^2). The exemption limits are usually presented in two parts, one for fixed surface contamination and the other (lower limit) for removable surface contamination. Wiping a 100 cm^2surface with moderate pressure using a filter paper or cloth collects samples for comparison to the removable surface limit. The paper or cloth is then analyzed by appropriate survey meters. Usually wipe samples are sent to a laboratory for follow-up analysis. Because of the difficulty of obtaining and interpreting these limits many state rules choose not to apply them to NORM impacted equipment.

NORM Concentrations in Soil, Scale, Sludge and Water

Activity measurements of various NORM impacted media usually requires that samples of the impacted material be collected and sent off to a qualified laboratory for specific analysis for the isotopes of interest, usually radium-226 and radium-228. As is usual for any field sampling, specific laboratory protocols should be followed to avoid sample contamination and increase result accuracy.

Several relatively new technologies that measure radionuclide concentrations *in situ* have been developed. State regulators may accept the results of *in situ* analyses of NORM concentrations in lieu of laboratory analyses, particularly if the accuracy of the *in situ* analyses can be demonstrated through the collection and analysis of a set of control samples sent to an off-site laboratory. In general, the use of *in situ* analyses often results in reduced site characterization costs because field analytics typically are less expensive on a per sample basis than off-site laboratory analyses. Their use eliminates lengthy turn-around times and can allow one to collect the full suite of data needed to support decision-making in a single field exercise. The applicability and cost-effectiveness of *in situ* analyses has been successfully demonstrated at a petroleum industry NORM site in Michigan.[3] In this demonstration project, the use of *in situ* analyses was coupled with an adaptive decision-making process that allowed site characterization and remediation activities to be more efficiently focused to problem areas and to be bundled into one field exercise.

Personnel External Radiation Exposure

The Occupational Safety and Health Administration (OSHA) regulations permit occupationally exposed employees to receive a maximum radiation dose of 1250 millirem per calendar quarter. Typically, work area radiation levels in the general industry segment are far below this regulatory level. Therefore, routine personnel

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radiation exposure surveys are not frequently done. It should be noted that OSHA regulations require the use of personnel dosimeters in areas where personnel are likely to receive greater than 312.5 millirem per calendar quarter. This equates to 600 μR/h for a 40-hour workweek. If radiation levels approach this value in routine work areas, evaluation of personnel radiation exposure should be considered.

Personnel radiation exposures may be evaluated either by having personnel wear thermoluminescent (TLD) dosimeters or film badges, which must be returned to and analyzed by the supplier. Alternatively, surveys with a shielded energy compensated Geiger Muller (GM) probe or ion chamber survey meter capable of providing a readout in millirem/hour may be conducted. When the survey method is used, work location and time information is required to estimate radiation dose.

Personnel Exposures to Airborne Radioactive Material

NORM deposits in equipment and piping do not present any airborne exposure concerns during normal operations. During maintenance or dismantling activities, airborne NORM exposure concerns are minimized by the application of typical industrial hygiene practices (such as keeping NORM deposits wet and using respiratory protective equipment). On the other hand, during grinding, cutting, chipping and sanding, and during removal of NORM scale and sludge, the NORM may become airborne. Under such conditions, it is advisable to evaluate employee exposure to ambient airborne concentrations of NORM.

Ambient (area) airborne NORM concentrations are normally evaluated by filtering a high-volume air sample and having the filter analyzed by a radiometric laboratory. The sample results are then compared to the Derived Air Concentration (DAC) limits for radium-226 or lead-210.

Personnel exposures are evaluated by the same sampling and laboratory methodology except that personnel wear lapel air samplers that operate at 2 to 5 liters per minute versus the higher flow rate ambient air pumps. In both techniques, it is essential to know the volume of air sampled along with the radiometric results in order to calculate the airborne NORM concentrations in microcuries per milliliter. To help put these exposures in perspective, the NORM decontamination industry has not found overexposures of its personnel to the DAC limits despite the fact that they work on nothing but NORM impacted equipment. It is very unlikely that significant overexposures to airborne NORM are occurring during the routine maintenance of NORM impacted equipment.

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Instrument Care, Maintenance and Calibration

Portable survey meters typically used to conduct NORM surveys are, in themselves, generally quite rugged. However, the associated detectors and probes must be handled with care.

As a matter of good practice, connecting cables should not be sharply bent; frequent sharp bending of the connecting cables will break the internal cable wire. Battery contacts need to be kept clean and free of corrosion residue. In humid environments, or if instruments are used infrequently, batteries should be removed from survey meters when the survey instruments are not being used. Survey instruments should be kept clean, and detectors (probes) need to be kept free of NORM residue.

NORM survey instruments should be returned to the manufacturers (or other qualified instrument calibration agents) at least annually (semi-annually in some jurisdiction.) for general maintenance and calibration. Individual meters, detectors and connecting cables should be calibrated as discrete instruments (units): Switching components between units voids the calibration(s).

Instrument operational checks should be conducted before each use of an instrument (or after the detector has been dropped or banged against a solid object, etc.) to ensure that the instrument is functioning properly and providing representative readings. Operational checks include:

Battery Check

Switch the meter dial to the "battery" position and observe that the meter indicator moves into and remains in the accepted range, or depress the "battery" button on the meter and observe dial;

Source Check

Expose the detector (probe) to a source of radioactivity of known strength and confirm that the meter registers the proper reading. It is not adequate to merely confirm a positive response by the meter. A damaged detector may provide a positive response, but the response will be much lower than the proper reading.

Various types (and strengths) of radioactive check: sources may be purchased from most survey instrument suppliers. Operation checks of NORM survey instruments should be recorded in the survey documentation.

NOTE: There is some potential for sparking when detector cables are connected or disconnected, or when switches are turned on or off. Where explosive atmospheres may be encountered, tests for the presence of flammable gas/vapor should be made prior to the radiation survey.

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IX
ELEMENTS OF AN OIL AND GAS NORM REGULATION

These elements are from Section 7, "Naturally Occurring Radioactive Material," of the 1994 IOGCC publication, *Environmental Guidelines for State Oil and Gas Regulatory Programs.* They highlight the significant issues that should be covered in a state regulation. The 1994 document currently is undergoing revision.

7.1 Background

Naturally occurring radioactive material (NORM) is present above background levels at some oil and gas E&P facilities and oil-field service company locations. NORM found in oil-field operations originates in subsurface oil and gas formations and is typically transported to the surface in produced waters. NORM may deposit in well tubulars, surface piping, vessels, tanks, pumps, valves, and other producing or processing equipment and may be found in scales, sludges, contaminated soils, and other associated E&P wastes.

7.2 General

States should adopt an oil field NORM regulatory program that addresses identification, use, possession, transport, storage, transfer, decontamination, and disposal to protect human health and the environment. States may choose not to adopt such a program if they find, based on field monitoring data and other scientific information, that significant levels of NORM do not occur in a state's oil and gas E&P industry. States that make such a finding should periodically reevaluate the basis for that determination.

If a state determines that a regulatory program is necessary, it should tailor its program to NORM occurrence in the oil and gas E&P industry and include the elements listed in Section 7.3. Oilfield NORM should be managed in accordance with the pollution prevention and waste management hierarchy provisions of the guidelines. In addition, the other sections of the guidelines apply, where applicable, to NORM as a constituent of E&P waste.

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7.3 Elements of an Oilfield NORM Program

7.3.1 Definition

States should develop a definition for NORM that is consistent with that which occurs in the oil and gas E&P industry. For purposes of the guidelines, NORM is defined as any nuclide or combination of nuclides that is radioactive in its natural physical state (i.e., it is not man-made), but does not include byproduct, source or special nuclear material.

7.3.2 Action Levels

States should establish numerical action levels above which NORM is regulated. Such action levels should also be used to regulate the transfer or release of equipment, materials, and sites.

7.3.3 Surveys

States should develop standards for survey instrumentation and procedures for identifying and documenting equipment, materials, and sites that may contain NORM above the action levels. State program requirements should specify the types of facilities to be surveyed, when surveys should be performed, when survey results should be reported to the state regulatory agency, and the required training of surveyors. State survey requirements should provide data necessary to meet the purposes described earlier in the publication, and to administer and enforce state program requirements effectively.

7.3.4 Worker Protection

State regulatory programs should include applicable state and federal standards for worker protection from exposure to radiation, including worker protection plans, and other standards necessary for the protection of workers from exposure to NORM. State regulatory programs should require the training of oilfield workers in NORM identification and radiation protection.

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7.3.5 Licensing/Permitting

a. **General licensing/permitting.** Persons who possess oilfield NORM in concentrations or at exposure rates that exceed state-adopted action levels should be generally licensed or permitted.

b. **Specific licensing/permitting.** Specific licenses or individual permits should be required for commercial storage, removal, decontamination, remediation, treatment or disposal of oilfield NORM. A state may require specific licenses or individual permits for the management of oilfield NORM at centralized facilities, which are defined earlier in the book.

7.3.6 Removal/Remediation

States should establish standards and procedures for removal, decontamination and remediation that are protective of workers, the public health and the environment.

7.3.7 Storage

States should establish standards for storage of NORM that are protective of human health and the environment. NORM storage facilities should be constructed to prevent or minimize releases. Tanks used to store oilfield NORM should meet the requirements as noted in the guidelines. A state should adopt limits on the amount of time NORM exceeds action levels, which can be stored where in-state disposal alternatives have been authorized.

7.3.8 Transfer for Continued Use

State regulatory programs should allow for the transfer of land and equipment, containing NORM for continued operation in the production of crude oil and natural gas, with appropriate notification to affected parties.

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7.3.9 Release of Sites, Materials and Equipment

State regulatory programs should address the levels below which, and conditions under which, equipment, materials, and sites containing NORM may be released. State regulatory programs should only authorize the release for unrestricted use of equipment, materials, and sites that exhibit NORM below action levels. Such regulations should provide for appropriate notification to affected persons.

7.3.10 Disposal

State regulatory programs should authorize disposal alternatives within the state's jurisdiction for various E&P wastes containing NORM, including contaminated equipment, and should include regulatory requirements for NORM disposal that are protective of human health and the environment. Landowner notification may be required as a condition of disposal. Commercial and centralized NORM disposal facilities should meet the criteria noted earlier in the book.

7.3.11 Interagency Coordination

State radiation programs, oil and gas programs, and waste management programs are frequently distributed among separate agencies. Therefore, in many states, multiple agencies may regulate NORM. The various agencies should coordinate their regulatory and enforcement activities under the guidance give in the guidelines.

7.3.12 Public Participation

State regulatory programs for NORM should meet public participation guidelines established in these guidelines.

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7.4 Regulatory Development and Research

The Conference of Radiation Control Program Directors (CRCPD) has approved a model state regulation for TENORM, and a number of states have developed or are in the process of developing TENORM regulations. States that are developing their own NORM programs are encouraged to consult these sources for information and assistance. In addition, states should encourage and keep abreast of ongoing and future research on NORM. The term TENORM is defined in the model CRCPD regulations.

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X

SUMMARY OF STATE REGULATIONS FOR NORM IN OIL AND GAS

ALABAMA

State agency: State Oil and Gas Board, 420 Hackberry Lane, P.O. Box 869999, Tuscaloosa, Alabama 35486-6999. Phone (205) 349-2852. http://www.ogb.state.al.us is the Web page. Staff e-mail addresses are: *@ogb.state.al.us (*Insert staff persons first initial and last name or insert "info" for general information).

Regulatory agency: State Board of Health, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017. Phone (334) 206-5391. Fax (334) 206-5387.

- Relevant Statute/Regulations: Alabama Rules for Control of Radiation, 420-3-26.
- Scope: These rules apply to all persons who receive, possess, use, transfer, own or acquire any source of radiation.
- Licensing: No person shall receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license or provided otherwise - 420-3-26-.02 (2).
- Cleaning Equipment: Cleaning equipment that is contaminated is a licensed activity subject to requirements of Rules 420-3-26-.02, 420-3-26-.03, and 420-3-26-.10.
- Disposal of Waste: Rules for disposal of radioactive waste are listed in Rule 420-3-26-.03.
- Subsequent Use of Equipment: Contaminated equipment is restricted in use to controlled activities.
- Subsequent Use of Materials: Depending upon levels of contamination; unrestricted use to transfer only to someone licensed to receive said materials.
- Release/Sale of NORM-Contaminated Land: 5 pCi/gm or less without restrictions; use otherwise restricted.
- Projected Volume of stored NORM in the State: No estimate available.
- Respondent: Kirksey Whatley

ALASKA

State agency: Alaska Oil and Gas Conservation Commission, 3001 Porcupine Drive, Anchorage, Alaska 99501. Phone (907) 279-1433. Fax (907) 276-7542.

Regulatory agency: Oil and Gas Conservation Commission, 3001 Porcupine Drive, Anchorage, Alaska 99501-3192. Phone (907) 279-1433. Fax (907) 276-7542.

- Relevant Statute/Regulations: Alaska does not have NORM regulations. NORM is not much of a problem here. What little we have has a low count. Industry has taken a proactive stand, cleaning tubulars, etc. NORM waste is either injected as a Class II fluid or incorporated in cement slurry.
- Respondent: David Johnston

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ARIZONA

State agency: Oil & Gas Program Administrator, Arizona Geological Survey, 416 W. Congress, Suite 100, Tucson, Arizona 85701. Phone (520) 770-3500.

Regulatory agency: Arizona Radiation Regulatory Agency, 4814 S. 40th St., Phoenix, Arizona 85048. Phone (602) 255-4845, ext. 222.

- Relevant Statute/Regulations: R12-1-416(F) - Individuals may apply to other exempt levels.
- Scope: All radioactive materials.
- Licensing: It is required for possession in excess of limits.
- Disposal of Waste: Unless exempt must have approved disposal.
- Subsequent use of Equipment: Depending on levels, controls may apply.
- Subsequent use of Materials: Depending on levels, controls may apply.
- Release/sale of NORM-Contaminated Land: Depending on levels.
- Respondent: Aubrey Godwin

ARKANSAS

State agency: Arkansas Oil and Gas Commission, P. O. Box 1472, El Dorado, Arkansas 71731-1472. Phone (870) 862-4965.

Regulatory agency: Department of Health, Division of Radiation Control and Emergency Management, 4815 W. Markham Street, Little Rock, Arkansas 72205-3867. Phone (501) 661-2108.

- Relevant Statute/Regulations: Section 7 "Naturally Occurring Radioactive Material (NORM)" *of the Arkansas State Board of Health Rules and Regulations for Control of* Sources of Ionizing Radiation.
- Scope: Radiation protection standards for possession, use, transfer, and disposal of NORM. These regulations address NORM into products in which neither the NORM or the emitted radiation is considered to be beneficial to the products. Regulations address waste management and disposal standards.
- Licensing: General licenses are issued to mine, extract, receive, possess, own, use, process and dispose NORM. (RH-6010). Specific license for manufacturing and distribution of any NORM product for activities involving the remediation of equipment and/or facilities contaminated with NORM and the disposal of NORM waste. (RH-6020).
- *Cleaning Equipment: Equipment contaminated with NORM in excess of levels listed in* Appendix A, Section 7 and having maximum radiation exposure levels greater than 50 microR per hour including background shall NOT be released for unrestricted use. (RH-6010.b.).
- Disposal of Waste: RH-6013 to a licensed disposal facility or in accordance with an alternate method approved by the Department.
- Subsequent Use of Equipment: Equipment contaminated with NORM is exempt if the maximum radiation exposure level does not exceed 50 microR including background

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or radioactive contamination levels do not exceed requirements of Appendix A of Section 7 (RH-6010.d.).

- Subsequent Use of Materials: RH-6023 requires that during the normal use and disposal that the radiation dose in any one year or the dose committed from intake of NORM will not exceed the doses of Column I of RH-6024.
- Release/Sale of NORM-Contaminated Land: Requires that an annotation of the deed-records to indicate the presence and quantity of NORM (RH-6010.f.1.B.).
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Jared Thompson

Regulatory agency: Arkansas Oil and Gas Commission, P.O. Box 1472, El Dorado, Arkansas 71731-1472. Phone (501) 862-4965. Fax (501) 862-8823.

- Relevant Statute/Regulations: The Oil and Gas Commission does not have regulations concerning NORM whether it be found in pipe and scale or soil and sediment.
- Scope: The Oil and Gas Commission may become involved with NORM disposal if an operator desires to dispose of the waste by well injection.
- Licensing: Not applicable - see ADH
- Cleaning Equipment: Not applicable - see ADH
- Disposal of Waste: May work jointly with ADH if applicant desires to use injection or down hole disposal.
- Subsequent Use of Equipment: Not applicable.
- Subsequent Use of Material: Not applicable.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Gary Looney

CALIFORNIA

State agency: California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, 801 K Street, MS 20, Sacramento, California 95814-3530. Phone (916) 445-9686.

Regulatory agency: Department of Health Services, Radiological Health Branch, P.O. Box 942732, Sacramento, California 94234-7320. Phone (916) 322-3482. Fax (916) 324-3610.

- Relevant Statute/Regulations: California Health and Safety Code, Sections 114705-115270. California Code of Regulations, Title 17, Sections 30100-30543.
- Scope: Addresses all radioactive materials but is not specific to NORM and NORM issues in oil and gas production.
- Licensing: At the present time no decontamination, handling or disposal licenses specific to oil and gas industries and the associated NORM have been issued.
- Cleaning Equipment: Not presently licensed. No inventory or company's involved.

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- Disposal of Waste: No regulations specific to oil and gas NORM disposal. If NORM sets off alarms at disposal sites or recycle facilities (including steel mills) then waste is treated as radioactive waste.
- Subsequent Use of Equipment: No specific regulations or restrictions at the present time.
- Subsequent Use of Materials: No specific regulations or restrictions at the present time.
- Release/Sale of NORM-Contaminated Land: No specific regulations or restrictions at the present time.
- Projected Volume of stored NORM in the State: Unknown, but large due to geothermal.
- Respondent: Edgar Bailey

COLORADO

State agency: Oil and Gas Conservation Commission, 1120 Lincoln St., Suite 801, Denver, Colorado 80203. Phone (303) 894-2100. Fax (303) 894-2109.

Regulatory agency: Department of Public Health and Environment (CDPHE), 4300 Cherry Creek Dr., South, Denver, CO 80246-1530. Phone (303) 692-3066. Fax (303) 759-5355.

- Relevant Statute/Regulations: Parts 3 and 4 of The Radiation Control Regulations.
- Scope: The state has broad authority to control radioactive material. NORM is evaluated on a case by case basis. Colorado has had very few instances of NORM issues in the oil and gas industry. Most of our NORM is in the sedimentary rocks associated with uranium "roll fronts."
- Licensing: Case by case evaluation.
- Disposal of Waste: Case by case evaluation.
- Subsequent Use of Equipment: Risk assessment of residual radioactivity.
- Subsequent Use of Materials: Risk assessment of residual radioactivity.
- Release/Sale or NORM-Contaminated Land: There have been no restrictions on the sale or release of land.
- Respondent: Jake Jacobi

Regulatory agency: Colorado Oil and Gas Conservation Commission, 1120 Lincoln St., Suite 801, Denver, Colorado 80203. Phone (303) 894-2100, Ext. 112. Fax (303) 894-2109.

- Relevant Statute/Regulations: None existing or proposed.
- Scope: COGCC has authority over E&P wastes but CDPHE has authority over disposal of low-level radioactive material.
- Licensing: Not in scope.
- Cleaning Equipment: Not in scope.
- Disposal of Waste: Not in scope, unknown.
- Subsequent Use of Equipment: Unknown.
- Subsequent Use of Materials: Unknown.

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- Release/Sale of NORM-Contaminated Land: Unknown.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Robin Reade

FLORIDA

State agency: Department of Environmental Protection, Division of Technical Services, Florida Geological Survey, 903 W. Tennessee St., Tallahassee, Florida 32304-7700. Phone (904) 488-4191/487-2219.

Regulatory agency: Department of Health, Bureau of Radiation Control, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700. Phone (850) 487-2437. Fax (850) 921-6364.

- Relevant Statute/Regulations: Chapter 64E-5, Florida Administrative Code (soon to be reissued as chapter 64E-5, F.A.C.).
- Projected Volume of stored NORM in the State: 30 drums at 55 gallons each.
- OTHER:

Florida's oil and gas industry is divided into two regions. In the western Panhandle to the north of Pensacola lies the Jay trend, consisting of eight fields. In south Florida, the Sunniland trend includes 14 fields located to the west and southeast of Ft. Myers. Production in south Florida began in 1943; the Panhandle fields were not discovered until 1970. Production peaked at 47.5 million barrels in 1978 and has been in general decline since then, but both regions are expected to continue operations for many more years. The Jay fields dominate, contributing around 70 percent of total production. Offshore oil production in Florida waters is currently nonexistent due to a ban on exploration and development.

The Department of Health first investigated technologically enhanced naturally occurring radioactive materials (TENORM) contamination in Florida's oil and gas industry in the late 1980s. Exxon Company USA was the state's largest operator at time, for both the Panhandle and south Florida regions. In response to NORM regulations adopted by Louisiana and Texas, Exxon developed corporate guidelines that all of their personnel and contractors follow. The guidelines are designed to ensure compliance with the most stringent NORM regulations, regardless of whether or not the jurisdictions in which they were operating have established NORM regulations. Thus, Exxon and their contractor personnel working in Florida complied with corporate worker protection procedures, and their NORM wastes were properly disposed.

A staff health physicist inspecting Exxon's south Florida fields in 1989 found maximum radiation levels in the 20-30μR/hr range at the fields' tank batteries. A recently completed inspection of five of the oldest fields in the same region (now operated by Calmet Florida, Inc.) served to confirm the 1989results. The highest gamma readings found was 80μR/hr in a saltwater storage tank; all other readings ranged from background (10-14μR/hr) to 40μR/hr, with most in the 20μR/hr range. The geochemistry of produced waters in the region does not appear to be conducive to radium replacement, resulting in low activity scale formation. Thirty-eight pipe scale samples were analyzed for radium content, with concentrations ranging from <0.75pCi/g.-11.5pCi/g. with an average of 2.1pCi/g.

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The panhandle region was also investigated in the late 1980s, but documentation of the findings is lacking. Records indicate that in 1993, Exxon was approved to dispose of 186 barrels of NORM waste (drilling mud) downhole in a wellbore during plugging and abandonment of one of their exhausted wells. In all other cases, Exxon's NORM wastes were shipped out of state for disposal at licensed waste disposal facilities.

In 1996, staff inspectors visited the two treatment facilities operating in the region, one operated by Exxon, and the other by De Soto Oil and Gas, Inc.(now Petro Operating Co.). The highest external gamma reading (100-200μR/hr) were noted in separator tanks, but due to extremely low worker occupancy times in the elevated radiation fields, the readings were not considered an occupational hazard.

De Soto was found to be generating small quantities of NORM waste (approximately 50 drums) and storing them on site pending availability of a wellbore ready for plugging and abandonment, which they planned to use for downhole disposal of their wastes. Exxon no longer operates in the Panhandle region, having recently sold their interests to Louisiana Land Exploration (LL&E).

Due to the low occupancies for the areas where elevated gamma readings were noted, our current position is that oil and gas TENORM in Florida does not warrant increased regulatory oversight at this time. However, additional analysis of data and additional field measurements may lead us to reassess our view, particularly if an effort to promulgate comprehensive TENORM regulations is made.

- Respondent: Walter Cofer.

GEORGIA

State agency: Environmental Protection Division, Department of Natural Resources, Geologic Survey Section, Room 400, 19 Martin Luther King Dr., S. W., Atlanta, Georgia 30334. Phone (404) 656-3214. (Rules and Regulations are available from the above).

- No NORM regulations at this time.

IDAHO

State agency: Oil and Gas Conservation Commission, Idaho Department of Lands, 3780 Industrial Ave., South, Coeur d'Alene, Idaho 83815-8918. Phone (208) 769-1535.

- No NORM regulations at this time.

ILLINOIS

State agency: Department of Natural Resources, Office of Mines and Minerals, Division of Oil and Gas, 524 S. Second Street, Springfield, Illinois 62701-1787. Phone (217) 782-7756.

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Regulatory agency: Department of Natural Resources, Division of Oil and Gas, 524 South Second St., Springfield, Illinois 62701-1787. E-mail: lbengal@dnrmail.state.il.us. Phone (217) 782-1689. Fax (217) 524-4819.

- Relevant Statute/Regulations: Illinois Oil and Gas Act – 225 ILCS 725/1.
- Scope: Department has authority to regulate **all** oil and gas wastes. Does not name NORM specifically, but Department interprets all to include oilfield NORM.
- Licensing: None required at this time. State Department of Nuclear Safety may purpose NORM regulations, however, current state low-level waste statutes implemented by Nuclear Safety are not clear on NORM authority.
- Cleaning Equipment: None regulated at this time except from the standpoint of worker safety, which is under the jurisdiction of the Department of Nuclear Safety.
- Disposal of Waste: Currently, only disposal of NORM in pit residues is regulated.
- Subsequent Use of Equipment: Equipment not regulated at this time.
- Subsequent Use of Materials: Use of potentially NORM contaminated materials are not regulated at this time.
- Released/Sale of NORM-Contaminated Land: Current regulations only require a notice be filled with the County Clerk stating the presence of NORM at a closed pit site.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Lawrence Bengal

Regulatory agency: Illinois Department of Nuclear Safety, Division of Materials, 1035 Outer Park Drive, Springfield, Illinois 62704. Phone (217) 785-9935. Fax (217) 782-1328.

- Relevant Statute/Regulations: 32 Illinois Administrative Codes, but currently developing a specific TENORM rule.
- Scope: Covers all radioactive material and facilities that are not areas of exclusive federal jurisdiction.
- Licensing: Required for all that are not exempt.
- Cleaning Equipment: License required.
- Disposal of Waste: To specifically approved facilities and by specifically approved methods only.
- Subsequent Use of Equipment: Okay.
- Subsequent Use of Materials: Case-by-case evaluation needed.
- Release/Sale of NORM-Contaminated Land: Case-by-case evaluation. Decommissioning generally required.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Steven Collins.

INDIANA

State agency: Division of Oil and Gas, 402 West Washington Street, Room 293, Indianapolis, Indiana 46204. Phone (317) 232-4055.

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Regulatory agency: State Department of Health, Emergency Response and Radioactive Material Programs, Indoor and Radiologic Health, 2 North Meridian St., 5th Floor, Indianapolis, Indiana 46204-3003. Phone (317) 233-7153. Fax (317) 233-7154.

- Relevant Statute/Regulations: Proposed - No state regulations for dealing with NORM in the oil and gas industry.
- Scope: When found in scrap streams our office provides list of radiation brokers (CRCPD).
- Respondent: Rex Bowser

KANSAS

State agency: State Corporation Commission, Conservation Division, Finney State Office Building, 130 S. Market, Room 2078, Wichita, Kansas 67202. Phone (316) 337-6200.

Regulatory agency: Radiation Control Program, Bureau of Air and Radiation; Kansas Department of Health and Environment.

- Relevant Statute/Regulations: There are no existing or proposed regulations specific to NORM.
- Scope: The State of Kansas Radiation Protection Regulations apply to all persons who receive, posses, use, transfer, own or acquire any source of radiation.
- Licensing: NORM responses are evaluated to decide if radioactive materials license is required for the material.
- Cleaning Equipment: Descaling or cleaning operations would require a Radioactive Materials License if scale or sludge contains significant quantities of radioactive materials such as Radium-226.
- Disposal of Waste: There is currently no satisfactory cost-effective way of disposing of this material.
- Subsequent Use of Equipment: Release criterion of contaminated equipment would fall under the scope of Kansas Radiation Protection Regulations. Specific requirements would be addressed depending upon the scope of the licensee's proposed activities.
- Subsequent Use of materials: Release criterion of contaminated materials would fall under the scope of Kansas Radiation Protection Regulations. Specific requirements would be addressed depending upon the scope of the licensee's proposed activities.
- Release/Sale of NORM-Contaminated Land: A radioactive materials license would be required and appropriately transferred to the new owners.
- Projected Volume of stored NORM in the State: The extent of NORM contamination in oil and gas operations in Kansas has not been assessed. It has been proposed that the Department contact with a consultant to assess the extent of NORM contamination in Kansas.
- Respondent: David Whifill

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KENTUCKY

State agency: Division of Oil and Gas Conservation, P. O. Box 2244, Frankfort, Kentucky 40601. Phone (502) 573-0147.

Regulatory agency: Cabinet for Health Services, 275 East Main, Frankfort, Kentucky 40601. Phone (502) 564-7130. Fax (502) 564-7573.

- Relevant Statute/Regulations: CRCPD states that "TENORM does not include the natural radioactivity of rocks, soil, or background but instead refers to materials whose radioactivity is technologically enhanced by controlled practices." Part N of CRCPD states TENORM is "radioactive material." 902 KAR 100:010(176) states "radioactive material" means a solid, liquid, or gas which emits radiation spontaneously. TENORM falls into this area as defined by the CRCPD.
- Scope: Given the above 902 KAR 100 could be considered applicable to TENORM. All the areas listed below would fall under existing regulations. If TENORM is not considered radioactive material, then Kentucky would have regulations applicable to this material
- Respondent: John Volpe.

LOUISIANA

State agency: Office of Conservation, P. O. Box 94275, Capitol Station, Baton Rouge, Louisiana 70804-9275. Phone (225) 342-5540.

Regulatory agency: Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, Licensing Section, P.O. Box 82135, Baton Rouge, Louisiana 70884-2135. Phone (504) 765-0141. Fax (504) 765-0220.

- Relevant Statute/Regulations: Louisiana Administrative Code, Title 33, Part 15, Chapter 14 Regulation and Licensing of Naturally Occurring Radioactive Material (NORM), amended January 1995.
- Scope: The regulations say: "These regulations apply to any person who engages in waste generation, extraction, mining, beneficiating, processing, possession, use, transfer, treatment, transportation, or disposal of NORM or recycling of NORM contaminated equipment in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans, which could include many industries." Yet, in practice, the state of Louisiana has put NORM regulatory emphasis on the oil and gas industry. Largely, because the occurrence of NORM has predominately been found in the oil and gas industry. There are few other industries such as paper and pulp and petrochemical where the regulation of NORM has been enforced.
- Licensing: Louisiana created a general license requirement of all oil and gas operators/companies who own or operate sites where NORM contamination has been discovered. Upon discovery of the presence of NORM, an operator/company is required to notify the state of Louisiana of the site using the NORM notification form. The information is compiled into a database and each operator/company is assigned a

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general license number and each site is tracked by a site-specific number. At present, the state of Louisiana has approximately 450 NORM general licenses.

For companies engaged in providing NORM decontamination, handling, disposal, and other related NORM services, the state of Louisiana requires such companies to possess a NORM specific license issued from the Division or another agreement state. At present, there are 33 companies specifically licensed through the state of Louisiana.

- Cleaning Equipment: NORM general licensees are allowed to *...perform maintenance on vessels, tanks, tubular goods, or water treatment systems, or the clearing of pipe lines to maintain oil and gas production...* under the on-site maintenance provision stated in LAC33:XV.1408.A.4., provided that written worker protection procedures are submitted to the division, and that the maximum radiation level does not exceed two millirem per hour.

  The decontamination of NORM contaminated equipment for release for unrestricted use is reserved for companies that possess a NORM specific license from the state of Louisiana or an agreement state. The handling and decontamination of NORM contaminated equipment and sites is largely performed by companies that possess a NORM specific license.
- Disposal of Waste: At present, the following are disposal option available to oil and gas operators:
  (a) Commercial treatment by method of landfarming. There are one or two commercial landfarms in Louisiana permitted for NOW disposal that accept NORM with concentration less than 30 picocuries per gram of Ra-226 or Ra-228.
  (b) Non-commercial Downhole Disposal into wellbore to be plugged and abandoned.
  (c) Non-commercial deep well injection. In July 1997, the state of Louisiana issued an oil and gas operator a license to handle and process NOW/NORM waste belonging to the operator for injection into a Class II injection well.
  (d) Commercial deep well injection. There are two commercial facilities in the state of *Texas permitted and licensed to inject NOW/NORM into an injection well.*
- Subsequent Use of Equipment: NORM contaminated tubular goods and pipe are often decontaminated and then, reused. That which is unusable is decontaminated and sold as scrap.
- Release/Sale of NORM-Contaminated Land: To release the site, documentation is required supporting the removal of the NORM. Included in the documentation, would be a radiation survey of the area where the NORM was present, soil sample data, and records supporting the transfer of the equipment or NORM waste for treatment, storage, or disposal. The release criteria for a site is outlined in Louisiana's NORM Implementation Manual.
- Projected Volume of stored NORM in the State: It is uncertain how much NORM is being stored in the state. In 1994 and 1995, two disposal options came available that provided an outlet for many operators to begin moving their inventory of NORM waste for disposal. One of the options existed in Louisiana through a company that operated a commercial landfarm specifically permitted/licensed to accept NOW/NORM waste. The other option existed in Texas through a company that operated a commercial injection well permitted/licensed to accept NOW/NORM waste.
- *Respondent: Jason Talbot*

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MARYLAND

State agency: Maryland Department of the Environment, Water Management Administration, Minerals, Oil and Gas Division, 2500 Broening Highway, Baltimore, Maryland 21224.

Regulatory agency: Department of Environment, Minerals, Oil and Gas Division, 2500 Broening Highway, Baltimore, Maryland 21224. Phone (410) 631-8055.

- Relevant Statute/Regulations: No regulations or laws exist or are proposed regarding NORM in oil and gas production.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Respondent: C. Edmon Larrimore

MICHIGAN

State agency: Geological Survey Division, Department of Environmental Quality, P.O. Box 30256, Lansing, Michigan 48909. Phone (517) 334-6907. (Supervisor of Wells - same address).

Regulatory agency: Department of Environmental Quality, Geological Survey Division, Box 30256, Lansing, Michigan 48909. Phone (517) 334-6937. Fax (517) 334-6919.

- Relevant Statute/Regulations: Special Order of the Supervisor of Wells/Supervisor of Mineral Wells, Issued 11/3/1992.
- Scope: Order deals with approved method: for plugging wells in which NORM contamination exists on downhole equipment or is generated during plugging operations.
- Licensing: None required.
- Cleaning Equipment: None specified.
- Disposal of Waste: NORM-contaminated equipment may be reinserted into the wellbore from which it was taken. Soils, clothing, etc. contaminated with NORM during plugging may be disposed of by insertion into the well being plugged.
- Subsequent Use of Equipment: If NORM-contaminated equipment is not reinserted, it may be stored, reused, or recycled following applicable state and federal government regulations.
- Subsequent Use of Materials: As for equipment above.
- Release/Sale of NORM-Contaminated Land: No specific geological survey oversight of this area.
- Projected Volume of stored NORM in the State: Not applicable.
- Respondent: Ray Vugrinovich

Regulatory agency: Department of Environmental Quality, Radiological Protection Section, P.O. Box 30630, Lansing, Michigan 48909-8130. Phone (517) 335-8204. Fax (517) 335-8706.

- Relevant Statute/Regulations: Currently, the Michigan Department of Environmental Quality, pursuant to state statute (Public Code, 1978 Public Act 368, as amended), has regulatory authority over the radiological aspects of NORM. However, the

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associated administrative rules (Michigan's *Ionizing Radiation Rules*) have not yet been revised to specifically address NORM concerns related to oil and gas production. A staff proposal to adopt the current version of suggested regulations from the Conference of Radiation Control Program Directors (CRCPD) (Part N of the suggested state Regulations for Control of Radiation, February 1997) is being considered.

In the interim, *Cleanup and Disposal Guidelines for Sites Contaminated with Radium-226* can be considered as applicable in Michigan to address some of the more significant concerns related to NORM.

- Disposal of Waste:
  (a) For disposal of radium-226 contaminated materials in the form of bulk waste, such as contaminated soil or contaminated debris, materials containing a radium-226 concentration not exceeding 50 picocuries per gram, averaged over any single shipment, can be accepted in a Type II solid waste landfill, as defined in Act 641, Public Acts of 1978, as amended, and permitted by the Department. The maximum radium-226 concentration within any single shipment as determined by representative sampling must not exceed 100 picocuries per gram.
  (b) For disposal of radium-226 contaminated waste materials at concentrations above 50 picocuries per gram, the wastes should be transferred to a licensed radioactive waste disposal facility.
  (c) In addition, any naturally occurring radioactive material wastes containing radium-226 at any concentration resulting from oil and gas extraction activities in Michigan may be disposed downhole during plugging and abandonment operations, subject to any additional applicable requirements of the Department.
- Release/Sale of NORM-Contaminated Land:
  (a) For release of facilities, equipment, or land for unrestricted use, the attached guidelines will be used by the department to determine acceptable levels of residual contamination during remediation of Michigan sites contaminated with radium-226.
  (b) For facilities, equipment, or land for which release under certain restrictions may be appropriate, the department will review specific site proposals for other release limits based on the methodology for dose assessment contained in NUREG/CR-5512, Vol. 1 (U.S. Nuclear Regulatory Commission, October 1992). In no case will a restricted use release be approved if the maximum individual total effect dose equivalent can exceed 100 millirem per year under conditions of a reasonable worst-case scenario. Each specific site remediation proposal involving restricted use must include an *As Low As Reasonably* Achievable analysis.
- Respondent: David Minnaar

MISSISSIPPI

State agency: State Oil and Gas Board, 500 Greymont Avenue, Suite E, Jackson, Mississippi 39202-3446. Phone (601) 354-7114.

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Regulatory agency: Department of Health, Division of Radioactive Health, Radioactive Materials Branch, P.O. Box 1700, Jackson, Mississippi 39215. Phone (601) 354-6167. Fax (601) 354-6687.

- Relevant Statute/Regulations: Mississippi State Board of Health Regulations for Control of Radiation, Section N.
- Scope: Mississippi Legislature gave NORM regulatory action to the State Oil and Gas Board in 1996.
- Respondent: B. J. Smith

Regulatory agency: Mississippi State Oil and Gas Board, 500 Greymont Ave., Suite E, Jackson, Mississippi 39202. Phone (601) 354-6474. Fax (601) 354-6873.

- Relevant Statute/Regulations: Rule 68. Disposal of NORM and Rule 69. Control of NORM
- Scope: Applies to NORM derived from exploration and production activities at facilities which on or after 7/1/95 were permitted by the State Oil and Gas Board, and which on some date were active or inactive.
- Licensing: None. Site survey required on all sites with results reported on Form 21.
- Cleaning Equipment: Required for "release for unrestricted use" but not regulated.
- Disposal of Waste: Permitted under Rule 68 for disposal in wells being plugged and abandoned, or offsite at a licensed low level radioactive waste or NORM disposal facility.
- Subsequent Use of Equipment: No restrictions if transferred to another producer. Radiation limits if released for unrestricted use.
- Subsequent Use of Materials: No restrictions if used by another oil and gas producer.
- Release/Sale of NORM-Contaminated Land: No restrictions if transferred to another producer. Radiation limits for release for unrestricted use.
- Respondent: W. Kent Ford

MISSOURI

State agency: State Oil and Gas Council, P. O. Box 250, Rolla, Missouri 65402. Phone (573) 368-2168.

Regulatory agency: Missouri Department of Natural Resources, Wellhead Protection Section, P.O. Box 250, Rolla, Missouri 65402. Phone (573) 368-2170. Fax (573) 368-2111.

- Relevant Statute/Regulations: There are currently no regulations in place or proposed that deal with NORM.
- Respondent: Evan Kifer

MONTANA

State agency: Board of Oil and Gas Conservation, P.O. Box 217, Helena, Montana 59624. Phone (406) 449-2622. Technical Office: 2535 St. Johns Avenue, Billings, Montana 59102. Phone (406) 656-0040. Northern Field Office: 218 Main Street, P.O. Box 690, Shelby, Montana 59474. Phone (406) 434-2422.

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Regulatory agency: Montana Department of Public Health and Human Services.

- Relevant Statute/Regulations: None; will be developing regulations within the next year, based on the CRCPD's state suggested regulations.
- Respondent: George Eicholt

NEBRASKA

State agency: Nebraska Oil and Gas Conservation Commission, P. O. Box 399, Sidney, Nebraska 69162. Phone (308) 254-6919.

Regulatory agency: HHS Regulation and Licensure, Public Health Assessment, Radioactive Material Program, P. O. Box 95007, Lincoln, Nebraska 68509. Phone (402) 471-2168.

- Relevant Statute/Regulations: At the present time, Nebraska has not adopted specific NORM regulations. Occurrences of NORM problems are currently handled under the state's general regulations for the control of radiation.
- Respondent: Brian Hearth

NEVADA

- No NORM regulations at this time.

NEW MEXICO

State agency: New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 South Pacheco Street, Santa Fe, New Mexico 87505. Phone (505) 827-7131. Fax (505) 827-8177.

Regulatory agency:

(a) Radiation Licensing and Registration Section, New Mexico Environmental Department (NMED).
(b) Oil Conservation Division, New Mexico Energy, Minerals and Natural Resources Department (OCD).

- Relevant Statute/Regulation:
  (a) NMED: Naturally Occurring Radioactive Materials in the Oil and Gas Industry (Subpart 14)
    - Scope: Apply to persons who engage in extraction, transfer, storage or disposal of NORM. Apply to sludges and scale and storage and cleaning of tubulars and equipment.
  (b) OCD: Disposal of Regulated Naturally Occurring Radioactive Material (Rule 714)
    - Scope: Establish procedures for the disposal of regulated NORM.
- Licensing: General and specific
- Cleaning Equipment: Allowed under worker protection plans and limits of exposures in the regulations.
- Disposal of Waste: Exempt if under 30 picocuries per gram of Ra226 above background or 150 picocuries per gram of any other NORM radionuclide above

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background. Disposal per regulation in non-retrievable flowlines and pipelines, in commercial-centralized facilities, in plugged and abandoned wells and in Class I and II injection wells.

- Subsequent Use of Equipment: Facilities and equipment containing regulated NORM shall not be released for unrestricted use.
- Storage of Materials: NORM can be stored up to one year under general licenses, longer under specific licenses or an extension granted by NMED.
- Projected Volume of Stored NORM in the State: Unknown
- Respondent: Jerrie Moore, NMED; Roger Anderson, OCD

NEW YORK

State agency: Department of Environmental Conservation, Division of Mineral Resources, 50 Wolf Road, Room 290, Albany, New York 12233-6500. Phone (518) 457-7480. Region 9 Office, 128 South Street, Olean, New York 14760. Phone (716) 372-0645. Region 8 Office, 6274 East Avon-Lima Road, Avon, New York 14414. Phone (716) 226-2466.

Regulatory Agency: Department of Environmental Conservation (DEC), Bureau of Pesticicles and Radiation, 50 Wolf Road, Room 402, Albany, New York 12233-7255. Phone: (518) 457-2225. Fax: (518) 485-8390.

- Relevant Statute/Regulations: 6 NYCRR Part 380 - Rules and Regulations for Prevention and Control of Environmental Pollution by Radioactive Materials.
- Scope: Discharge and disposal of radioactive materials; applies to NORM if
  (a) processed and concentrated and
  (b) subject to radioactive materials licensing.
- Licensing: Department of Environmental Conservation is not a radioactive materials licensing agency. The licensing agencies in New York state (State Health Department, State Labor Department, New York City Health Department) have not required licenses for NORM from oil and gas production.
- Release/Sale of NORM-Contaminated Land: DEC has cleanup guidelines for soils contaminated with radioactive materials (DSHM, TAGM 4003); DEC does not regulate sale of NORM-contaminated land.
- Projected Volume of stored NORM in the State: DEC has not made this estimate.
- Respondent: Paul Merges

NORTH CAROLINA

State agency: Department of Environment and Natural Resources, Division of Land Resources, P.O. Box 27687, Raleigh, North Carolina 27611. Phone (919) 733-3833.

Regulatory agency: Division of Radiation Protection, 3825 Barrett Dr., Raleigh, North Carolina 27609-7221. Phone (919) 571-4141. Fax (919) 571-4148.

- Relevant Statute/Regulations: G.S. 104E and 15A NCAC Chapter 11.
- Scope: All aspects of radiation protection.
- Licensing: Uses and sources of radioactive material and particle accelerators.
- Cleaning Equipment: U.S. Department of Transportation contamination limits.

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- Disposal of Waste: LLRW.
- Subsequent Use of Equipment: Per case basis.
- Subsequent Use of Materials: Per case basis.
- Release/Sale of NORM-Contaminated Land: Per case basis.
- Projected Volume of stored NORM in the State: Unknown; large PO4 plant.
- Respondent: Richard Fry.

NORTH DAKOTA

State agency: North Dakota Industrial Commission, Oil and Gas Division, 600 East Boulevard Ave., Dept. 405, Bismarck, North Dakota 58505-0840. Phone (701) 328-8020.

Regulatory agency: North Dakota Department of Health, P.O. Box 5520, Bismarck, North Dakota 58506-5520. Phone (701) 328-5188. Fax (701) 328-5200.

- Relevant Statute/Regulations: Regulations: North Dakota Radiological Health Rules, North Dakota Administrative Code article 33-10. Statute: North Dakota Century Code chapters 23-20, 23-20.1, and 23-20.2
- Scope: The regulations cover all ionizing radiation sources, including NORM. However, there isn't a specific chapter on NORM in regulations. North Dakota has not adopted regulations equivalent to the CRCPD's Part N yet.
- Licensing: Licensing of NORM is handled the same way as licensing of other radioactive materials, using North Dakota Radiological Health Rules chapter 33-10-03, which is based upon the CRCPD's Part C, "Licensing of Radioactive Materials." Also, anyone who owns NORM is considered to be a general licensee and would need to comply with applicable portions of the North Dakota Radiological Health Rules.
- Cleaning Equipment: No specific standards for cleaning equipment. Would need to obtain a license to provide NORM decontamination services.
- Disposal of Waste: Must receive approval of North Dakota Department of Health before disposing of NORM. In the past, we have approved disposal in a plug and abandon well; approval is on a case-by-case basis.
- Subsequent Use of Equipment or Materials: Equipment and materials must be permanently decontaminated below or equal to the standards in Appendix F of Chapter 33-10-04.1. A survey must be made after decontamination and the North Dakota Department of Health and subsequent transferee or owner must be provided with a copy of the survey. Equipment or materials can't be sold, leased, or transferred until the decontamination survey has been verified and accepted by the North Dakota Department of Health.
- Release/Sale of NORM-Contaminated Land: Must be 5 picocuries of radium or less per gram of dry soil. Results of surveys must be provided to North Dakota Department of Health and property owner or subsequent tenant or transferee. Property can't be vacated, sold, or transferred until a decontamination survey has been verified and accepted by North Dakota Department of Health.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Ken Wangler

AMERICAN OVERSIGHT

OHIO

State agency: Department of Natural Resources, Division of Oil and Gas, Building B, Fountain Square, Columbus, Ohio 43224. (Chapter 1509, Ohio Revised Code). Phone (614) 265-6922.

Regulatory agency: Department of Natural Resources, Division of Oil and Gas, 4383 Fountain Sq. Ct., Bldg. B, 3rd Floor, Columbus, Ohio 43224. Phone (614) 265-6893. Fax (614) 268-4316.

- Relevant Statute/Regulations: Ohio has no rules specific to oil and gas NORM.
- Respondent: Tom Tugend

OKLAHOMA

State agency: Oklahoma Corporation Commission, Oil and Gas Conservation Division, P.O. Box 52000-2000, Oklahoma City, Oklahoma 73152-2000. Phone (405) 521-2301. Fax (405) 521-3099. E-mail: m.battles@occmail.occ.state.ok.us. OCC Web site is www.occ.state.ok.us.

Regulatory agency: Department of Environmental Quality, Radiation Management Section, 1000 N.E. 10th St., Oklahoma City, Oklahoma 73117. Phone (405) 271-7484.

- Relevant Statute/Regulation: Oklahoma Department of Quality has no rules to specifically address NORM, Existing radiation rules are interpreted on a case-by-case basis as necessary.
- Scope: NORM rules have been proposed by industry, but exact scope and content are influx.
- Disposal of waste: Solid waste rules prohibit disposal of solid waste landfills (RCRA landfills).
- Respondent: Mike Broderick

OREGON

State agency: Department of Geology and Mineral Industries, Suite 965, 800 N.E. Oregon St., #28, Portland, Oregon 97232. Phone (503) 731-4100. Fax (503) 731-4066.

Regulatory agency: Oregon Health Division, Radiation Protection Services, 800 N.E. Oregon St., Portland, Oregon 97232. Phone (503) 731-4014.

- Relevant Statute/Regulations: OAR 333-117-010 to -370.
- Scope: Anyone who engages in extraction, mining, beneficiating, processing, use, transfer or disposal.
- Licensing: Yes.
- Cleaning Equipment: Yes.
- Disposal of Waste: Yes.
- Subsequent Use of Equipment: Yes.
- Subsequent Use of Materials: Yes.

AMERICAN OVERSIGHT

- Release/Sale of NORM-Contaminated Land: Must meet decommissioning and decontamination criteria.
- Respondent: Ray Paris and Dan Wermiel

PENNSYLVANIA

State agency: Department of Environmental Protection, Bureau of Oil and Gas Management, central office: P. O. Box 8765, Harrisburg, Pennsylvania 17105-8765. Phone (717) 772-2199. Regional office: 400 Waterfront Drive, Pittsburgh, Pennsylvania 15222-4745. Phone (412) 442-4015. Regional office: 230 Chestnut Street, Meadville, Pennsylvania 16335. Phone (814) 332-6860.

Regulatory agency: Department of Environmental Protection, Bureau of Oil and Gas Management, P.O. Box 8765, Harrisburg, Pennsylvania 17105. Phone (717) 772-2199.

- Relevant Statute/Regulations: None existing or proposed. Surveys have shown NORM is not an issue with oil and gas production in Pennsylvania.
- Respondent: James E. Erb

Regulatory agency: Department of Environmental Protection, Bureau of Radiation Protection, P.O. Box 8469, Harrisburg, Pennsylvania 17105. Phone (717) 787-3720.

- Relevant Statute/Regulations: Pennsylvania has no NORM regulations.
- Scope: NORM problems are addressed using existing regulations and EPA/NRC standards on a case-by-case basis.
- Respondent: Stuart Levin

SOUTH CAROLINA

Regulatory agency: Division of Radioactive Material Licensing and Compliance, Bureau of Radiological Health, 2600 Bull Street, Columbia, South Carolina 29201-1708. Phone (803) 737-7406.

- Relevant Statute/Regulations: Part IX, "Licensing of Naturally Occurring Radioactive Material (NORM)," of South Carolina Department of Health and Environmental Control, Regulation 61-63, Radioactive Materials (Title A).
- Scope: This part establishes radiation protection standards for the possession, use, transfer, transport, and/or storage of naturally occurring radioactive material (NORM) or the recycling of NORM contaminated materials not subject to regulation under the Atomic Energy Act of 1954, as amended. The requirements of this part are in addition to and not in substitution for other applicable requirements of Parts I, II, III, VI, and VII of these regulations. Except as otherwise specifically provided, these regulations apply to all persons who engage in the extraction, mining, beneficiating, processing, use, transfer, transport, and/or storage of NORM. Also the recycling of NORM contaminated materials in a manner that alters the chemical properties or physical state of natural sources of radiation or the potential exposure pathways to humans or environment.
- Licensing: General and specific.
- Respondent: David King

AMERICAN OVERSIGHT

SOUTH DAKOTA

State agency: Department of Environment and Natural Resources, Oil and Gas Program, 2050 W. Main, Suite #1, Rapid City, South Dakota 57702. Phone (605) 394-2229. Fax (605) 394-5317.

Regulatory agency: Department of Environment and Natural Resources, 2050 W. Main, Suite 1, Rapid City, South Dakota 57702. Phone (605) 394-2229.

- Relevant Statute/Regulations: South Dakota does not have any oilfield rules addressing NORM at present. There are no NORM rules being proposed at present.
- Scope: Not applicable.
- Licensing: Not applicable.
- Cleaning Equipment: Not applicable.
- Disposal of Waste: Not applicable.
- Subsequent Use of Equipment: Not applicable.
- Subsequent Use of Materials: Not applicable.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Projected Volume of stored NORM in the State: Not applicable.
- Respondent: Fred V. Steece

TENNESSEE

State agency: State Oil and Gas Board, 13th Floor, L & C Tower, 401 Church St., Nashville, Tennessee 37243-0445. Phone (615) 532-0166. Fax (615) 532-1517. E-mail mburton@mail.state.tn.us.

Regulatory agency: Department of Environment and Conservation; Division of Radiological Health, 401 Church St., 3rd Fl., L & C Annex, Nashville, Tennessee 37243.

- Relevant Statute/Regulations: State Regulations for Protection Against Radiation, 1200-2-4, 1200-2-5, 1200-2-10.
- Scope: The state of Tennessee does not distinguish between NORM and any other radioactive material (NARM, byproduct, tanuranic, special nuclear material). All radioactive material is subject to the regulations of the state of Tennessee.
- Licensing: All radioactive material including NORM is subject to the licensing of the state of Tennessee unless excluded on a case-by-case basis. This includes possession, storage, use, transfer, receive, own or the acquisition of any radioactive material unless otherwise exempted (NRC, Agreement State Exemptions).
- Cleaning Equipment: This would require a specific license issued by the state of Tennessee for the authorization of a particular process.
- Disposal of Waste: Waste must be disposed of as radioactive unless otherwise specifically authorized by the state of Tennessee (case-by-case).
- Subsequent Use of Equipment: Equipment can be "free-released" if it meets the requirements of 1.86, NRC Regulatory Guide.
- Subsequent Use of Materials: Materials must be specifically licensed for use as any other radioactive material unless specifically authorized by the state of Tennessee (case-by-case).

AMERICAN OVERSIGHT

- Release/Sale of NORM-Contaminated Land: Not encountered. Property would have to be decontaminated to levels at or very near 'true background.' Land could possibly be sold with institutional controls and restrictions if it was not completely "clean." (case-by-case)
- Projected Volume of stored NORM in the State: Unknown, not characterized in this fashion.
- Respondent: Michael Page.

TEXAS

State agency: Railroad Commission of Texas, Oil and Gas Division, 1701 N. Congress, Austin, Texas 78701. Mailing address: P.O. Box 12967, Austin, Texas 78711-2967. Phone (512) 463-6887.

- At the end of 1994, the Commission adopted a rule (Rule 94) for disposal of oil and gas naturally occurring radioactive material (NORM). In Texas, the RRC regulates disposal of oil and gas NORM waste and the Texas Department of Health (TDH), Bureau of Radiation Control, regulates all other aspects of oil and gas NORM management. In 1994, the RRC adopted regulations for disposal of oil and gas NORM waste (Rule 94). These regulations were developed in consultation with the TDH. NORM that occurs in oil and gas products is exempt from regulation under TDH rules. NORM that occurs in produced water is exempt from TDH rules applicable to transportation and storage and is not subject to special NORM disposal regulations. The rule is based on risk of exposure to NORM. The rule authorizes certain disposal methods for NORM oil and gas waste under certain conditions, and requires specific authorization for other disposal methods. Staff from the RRC, TDH and the Texas Natural Resource Conservation Commission (TNRCC) meet quarterly to discuss radiation issues and to coordinate efforts. In addition, the Texas Radiation Advisory Board (TRAB), which consists of 18 members appointed by the governor, is charged with providing recommendations and technical advise to the RRC, the TDH, and Texas Natural Resources Conservation Commission.

UTAH

State agency: Department of Natural Resources, Division of Oil, Gas and Mining, 1594 W. North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, Utah 84114-5801. Phone (801) 538-5340. Fax (801) 359-3940.

Regulatory agency: Department of Environmental Quality, Division of Radiation Control, P.O. Box 144850, Salt Lake City, Utah 84114-4850. Phone (801) 536-4250. Fax (801) 533-4097.

- Relevant Statute/Regulations: R313-19-13(2)(a)(i)(B) provides that naturally occurring radioactive material (NORM) containing less than 15 picocuries per gram radium-226 is exempt from regulation. Amounts greater than this are subject to licensing.
- Scope: Current rules are somewhat limited in scope. The Conference of Radiation Control Program Directors (CRCPD) has released draft rules for the licensing and

AMERICAN OVERSIGHT

regulation of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM). The Division of Radiation Control supports this effort.

- Licensing: Requirements for licensing are found in the Utah Rules at R313-22.
- Cleaning Equipment: Licensees are allowed to clean and release equipment for unrestricted release. Methods and procedures are generally approved as part of the licensing process but they may also be approved when a licensee undergoes decommissioning.
- Disposal of Waste: Licensed radioactive waste is generally disposed of by transfer to a licensed low-level radioactive wasteland burial facility. Radiation Control Rules in R313-15-1002 provide for other disposal procedures (on-site burial).
- Subsequent Use of Equipment: Contaminated equipment may be released for unrestricted use once the licensee has decontaminated the equipment Division standards. The standards used as those found in Nuclear Regulatory Commission Regulatory Guide 1.86 (June 1974).
- Subsequent Use of Materials: Licensed materials may be transferred to others for subsequent use provided the transfer is in accordance with R313-19-41.
- Release/Sale of NORM-Contaminated Land: Licensed facilities (land) must meet decommissioning clean-up standards before it may be used for unrestricted purposes.
- Projected Volume of stored NORM in the State: Unknown.
- Other: Radiation Control Rules on Internet: www.eq.state.ut.us/eqrad/dre_hmpg.htm.
- Respondent: Craig Jones

VIRGINIA

State agency: Department of Mines, Minerals and Energy, Division of Gas and Oil, Box 1416, Abingdon, Virginia 24212. Phone (540) 676-5423.

Regulatory agency: Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, Abingdon, Virginia 24212. Phone (703) 676-5423. Fax (703) 676-5459.

- *Relevant Statute/Regulations: At this time, the Commonwealth of Virginia does not* have regulations regarding NORM and does not have nor anticipate proposing regulations for naturally occurring radioactive material in oil and gas production.
- Respondent: Byron Fulmer

WASHINGTON

Stage agency: Department of Natural Resources, Olympia, Washington 98504. Phone (206) 459-6372.

Regulatory agency: Department of Health, Division of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827. Phone (360) 753-3459. Fax (360) 753-1496.

- Relevant Statute/Regulations: No specific NORM regulations.
- Scope: WAC 246-221-001 establishes standards for protection against radiation hazardous including Radium-226.
- Licensing: WAC 246-232-120 lists the amount of Radium-226 that is exempt from licensing.

AMERICAN OVERSIGHT

- Cleaning Equipment: WAC 246-232-140 Schedule D lists acceptable surface contamination levels for alpha, beta and gamma.
- Disposal of Waste: 246-249-080 Large volumes of NORM (acceptance criteria).
- Subsequent Use of Equipment: Same as 246-232-1-40.
- Subsequent Use of Materials: Same as 246-232-120.
- Release/Sale of NORM-Contaminated Land: 246-235 Specific License criteria.
- Projected Volume of stored NORM in the State: Not determined.
- Respondent: Gary Robertson

WEST VIRGINIA

State agency: West Virginia Oil and Gas Conservation Commission and the Division of Environmental Protection, Office of Oil and Gas are both located at 10 McJunkin Dr., Nitro, West Virginia 25143-2506. Phone (304) 759-0516.

Regulatory agency: Bureau for Public Health.
- Relevant State/Regulations:
- Scope: Regulations cover radioactive materials but not specific to NORM.
- Licensing: Does not license.
- Respondent: Beattie DeBord

WYOMING

State agency: Wyoming Oil and Gas Conservation Commission, P. O. Box 2640, Casper, Wyoming 82602. Phone (307) 234-7147.

Regulatory agency: Wyoming Oil and Gas Conservation Commission, P.O. Box 2640, Casper, Wyoming 82602. Phone (307) 234-7147.
- Relevant Statute/Regulations: Rule 404(J.).
- Disposal of Waste: Rule 404(J.) - Dispose of produced water, tank bottoms and other miscellaneous solid waste in a manner which is in compliance with the Commission's rules and other state, federal, or local regulations.
- Respondent: Janie Nelson

Regulatory agency: Department of Environmental Quality, Water Quality Division, 122 W. 25th St., Herschler Bldg., 4W, Cheyenne, Wyoming 82001. Phone (307) 777-7082.
- Relevant Statute/Regulations: Chapter 1, Section 22, Water Quality Rules and Regulations. Applied to NPDES permits.
- Scope: Class 1 and 2 waters not to exceed radiological limits established on the most recent Federal Primary Drinking Water standards published by EPA. Class 3 and 4 waters radium-226 concentration shall not exceed 60pci/l.
- Licensing: NPDES individual permit.
- Respondent: Tod Parfitt

AMERICAN OVERSIGHT

Summary of State Regulations for TENORM in Oil and Gas

Please provide current links to relevant information (e.g., rules, guidelines, and associated forms). If your state has more than one agency, please have all of the agencies complete the questionnaire.

Regulatory agency(s) and jurisdiction(s):
[Name of agency]
[Contact information]

Relevant statutes/regulations:

Licensing (generators or commercial activities):

Remediation of facilities (land and equipment):

Disposal of NORM (e.g., downhole, injection, landfill):

Monitoring of NORM in drilling, production, processing, transportation, and storage:

Release, sale or recycle of contaminated land and equipment (owned or leased):

Training requirements for operators, surveyors, etc.:

Recent NORM litigation:

What NORM procedures does your state follow in plugging orphan wells and remediating well sites:

Additional information:

Respondent:

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 08, 2022 5:58 PM EDT
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: FW: [EXTERNAL] UPDATE: DOI Initial Grant Guidance--State Comments
Attachment(s): "RE Comments on Draft Guidance.msg","Re UPDATE DOI Initial Grant Guidance--State Comments.msg"

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Friday, April 8, 2022 3:37 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] UPDATE: DOI Initial Grant Guidance--State Comments

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Amy received additional comments from Oregon and Wyoming. They are attached.

Also, Steve Tryon has informed us that DOI plans to post the initial grant guidance early next week. We will let you know as soon as we hear it is available.

Hope everyone has a great weekend!

From: Lori Wrotenbery
Sent: Wednesday, April 6, 2022 12:25 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: UPDATE: DOI Initial Grant Guidance--State Comments

Attached are the comments shared with Amy by the following states:

Indiana
Kentucky
Louisiana
Missouri
New Mexico
New York
North Dakota
Ohio
Pennsylvania
Texas
Wyoming

Amy has confirmed with Greg Nottingham that DOI received these comments. If your state submitted comments that are not included here, please send a copy to Amy.

Thanks,
Lori

From: Lori Wrotenbery
Sent: Wednesday, March 23, 2022 4:47 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: UPDATE: Initial Grant Guidance.

Attached are the comments I submitted to DOI today on the draft state initial grant guidance.

I will be out of the office from March 24th through April 1st. If you need anything from IOGCC during that time, please let Amy know. I will return to the office on April 4th.

Thanks,
Lori

From: Lori Wrotenbery
Sent: Monday, March 21, 2022 4:53 PM
Subject: UPDATE: Initial Grant Guidance.

Attached is the Orphaned Well Data Reporting Template, which is referenced in the initial grant guidance in paragraph (j) on page 7 and paragraph 2 on page 11. It did not get posted with the guidance as intended, but Steve Tryon asked me to share it with you.

From: Lori Wrotenbery
Sent: Thursday, March 17, 2022 2:58 PM
Subject: RE: UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

AMERICAN OVERSIGHT

Breaking News:

DOI has released the draft initial grant guidance: https://www.doi.gov/pressreleases/biden-harris-administration-releases-draft-guidance-invites-public-comment-new.

We are scheduling a states-only meeting for tomorrow afternoon at 1:00-2:30 PM CT to review the draft. If you can join us, please follow the Zoom instructions below. I will send you a copy of my preliminary comments on the draft before the meeting.

Please let me know if you have any questions.

Thanks,
Lori

You are invited to a Zoom webinar.
When: Mar 18, 2022 01:00 PM Central Time (US and Canada)
Topic: Review of DOI's Draft Initial Grant Guidance--States Only

Register in advance for this webinar:
https://us02web.zoom.us/webinar/register/WN_1YbwRQ3ZTpe-tLOvVCP7AQ
After registering, you will receive a confirmation email containing information about joining the webinar.

AMERICAN OVERSIGHT

From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Wednesday, April 06, 2022 4:10 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: RE: Comments on Draft Guidance
Attachment(s): "FW [EXTERNAL] Oil Gas Orphan Well Program - Oregon .msg"

Hi Amy,

I asked the BLM National Oil and Gas Lead if they had any documented abandoned wells on federal lands in Oregon. The response I received indicated that geothermal wells may NOT be included in this program. My confirmation request to the dedicated orphaned wells email address has not been answered yet.

Thank you,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
***Due to an increase in permit applications and inquiries submitted to the MLRR office, processing and response times have increased. Permit applications are processed in the order they are received and moved forward as applicants respond to deficiencies. Thank you for your patience.**
COVID-19 Response: To help address COVID-19 concerns, many DOGAMI staff are teleworking. MLRR is continuing normal operations. For best service, please contact us by email.
Check out our latest newsletter and sign up to receive it directly at:https://www.oregongeology.org/mlrr/engage.htm
Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

From: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>
Sent: Wednesday, April 6, 2022 10:36 AM
To: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: FW: Comments on Draft Guidance

Can you respond to this. I believe it came from you. Thanks!

Bob Brinkmann R.G.
DOGAMI-MLRR

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Wednesday, April 6, 2022 10:17 AM
To: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>
Subject: Comments on Draft Guidance

Hi Bob,

DOI let us know that Oregon asked for clarification on geothermal well eligibility. Can I get a copy of the request for information and DOI's comments? We just want to keep all the states comments on file for backup.

Thank you!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



AMERICAN OVERSIGHT

From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Tuesday, March 29, 2022 1:21 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Tryon, Steve G <stephen_tryon@ios.doi.gov>; LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>; BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; PRIEST Zee SR * DGMI <Zee.SR.PRIEST@dogami.oregon.gov>
Subject: FW: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

Greetings!

Oregon has been following this program out of an interest in applying the funding to orphanedgeothermal wells. Can you please confirm/deny whether these grant monies can be used for that purpose, or only oil/gas?

Thank you very much,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
***Due to an increase in permit applications and inquiries submitted to the MLRR office, processing and response times have increased. Permit applications are processed in the order they are received and moved forward as applicants respond to deficiencies. Thank you for your patience.**
COVID-19 Response: To help address COVID-19 concerns, many DOGAMI staff are teleworking. MLRR is continuing normal operations. For best service, please contact us by email.
Check out our latest newsletter and sign up to receive it directly at:https://www.oregongeology.org/mlrr/engage.htm
Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

From: Warren, Matthew (Matt) <mwarren@blm.gov>
Sent: Tuesday, March 29, 2022 9:31 AM
To: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: RE: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

ReNeea,

Currently there are no federal orphan wells in Oregon. My understanding is geothermal wells are not part of the federal oil and gas orphan well funding.

Matthew Warren
National Oil and Gas Program Lead
BLM HQ310
Cell 505-216-8832

From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Wednesday, March 23, 2022 2:39 PM
To: Warren, Matthew (Matt) <mwarren@blm.gov>
Cc: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

Hi Matthew,

Our agency has been participating in the IOGCC meetings re: grant monies available for plugging/abandoning orphaned wells. We actually have two geothermal wells that are orphaned. We don't have any orphaned oil/gas wellsthat we know of, and so were curious whether BLM had any identified orphaned wells in Oregon?

I realize you must be incredibly busy right now – if the information is available in the BLM database(s), I would be happy to access it myself. Any direction you can provide would be appreciated 😊

Cheers,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
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AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

From: Tom Kropatsch <tom.kropatsch@wyo.gov>
Sent: Friday, April 08, 2022 1:05 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Re: UPDATE: DOI Initial Grant Guidance--State Comments
Attachment(s): "Comment on Initial Grant Guidance.pdf"

Hi Amy,
In addition to the comments I originally submitted, I also submitted comments after the revisions they made to the guidance. I forgot to copy you on them, but they are attached.

Thanks,
Tom Kropatsch
Oil and Gas Supervisor
Wyoming Oil and Gas Conservation Commission
2211 King Blvd
PO Box 2640
Casper, WY 82602
Office: (307) 234-7147
Cell: (307) 274-7487

On Wed, Apr 6, 2022 at 11:25 AM Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us> wrote:

> Attached are the comments shared with Amy by the following states:
>
> Indiana
>
> Kentucky
>
> Louisiana
>
> Missouri
>
> New Mexico
>
> New York
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> North Dakota
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> Ohio
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> Pennsylvania
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> Texas
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> Wyoming
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> Amy has confirmed with Greg Nottingham that DOI received these comments. If your state submitted comments that are not included here, please send a copy to Amy.
>
> Thanks,
>
> Lori
>
> ---
>
> **From:** Lori Wrotenbery
> **Sent:** Wednesday, March 23, 2022 4:47 PM
> **Cc:** Amy Childers <amy.childers@iogcc.state.ok.us>
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>
> Attached are the comments I submitted to DOI today on the draft state initial grant guidance.

AMERICAN OVERSIGHT

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Thanks,

Lori

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Sent: Monday, March 21, 2022 4:53 PM
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Sent: Thursday, March 17, 2022 2:58 PM
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Breaking News:

DOI has released the draft initial grant guidance:https://www.doi.gov/pressreleases/biden-harris-administration-releases-draft-guidance-invites-public-comment-new.

We are scheduling a states-only meeting for tomorrow afternoon at 1:00-2:30 PM CT to review the draft. If you can join us, please follow the Zoom instructions below. I will send you a copy of my preliminary comments on the draft before the meeting.

Please let me know if you have any questions.

Thanks,

Lori

You are invited to a Zoom webinar.

When: Mar 18, 2022 01:00 PM Central Time (US and Canada)

Topic: Review of DOI's Draft Initial Grant Guidance--States Only

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_1YbwRQ3ZTpe-tLOvVCP7AQ

After registering, you will receive a confirmation email containing information about joining the webinar.

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Governor Mark Gordon, Chairman | Tom Kropatsch, State Oil and Gas Supervisor
Commissioners Jenifer Scoggin | Erin Campbell | Ken Hendricks | Jimmy E. Goolsby

March 25, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Submitted via email: orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Dear Deputy Assistant Secretary Feldgus and Director Tryon,

Thank you for the opportunity to submit comments regarding the Draft State Initial Grant Guidance. It is important the guidance issued by the Department of Interior (DOI) is in alignment with the provisions of the orphaned well program in the Bipartisan Infrastructure Law (BIL) to ensure successful implementation of the state portion of the program. We look forward to continued collaboration with the DOI through the Interstate Oil and Gas Compact Commission (IOGCC).

There were some concerns regarding certain definitions and requirements present in early versions of the draft guidance that were revised or removed from this the current draft guidance document. We appreciate the revision of these provisions so that the document more closely aligns with the BIL. While these revisions addressed many of the concerns we had related to the guidance document, there are a few additional items that should be revised to more closely align the guidance to the BIL, to allow the most flexibility to states to effectively implement an orphaned well plugging program, or to allow states to implement the program while complying with requirements of their own states.

The first item we suggest for revision is related to State, Federal, and Tribal coordination. This section requires that the State collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. This is overly prescriptive and may force the States to change the way historical coordination between States and the Federal government has been implemented. For example, in Wyoming we have assisted the Bureau of Land Management (BLM) in the plugging of Federal orphan wells for the past several years. As part of this historical cooperation, the Wyoming Oil and Gas Conservation Commission (WOGCC) receives a list of orphan projects from the BLM, releases bids, and issues contracts for the work following the State process. The BLM staff conduct any required field work, such as witnessing the plugging operations. Once the operations are complete the WOGCC pays the invoices and is reimbursed from Federal grants issued by the BLM. The BLM field staff collects all data associated with field work that would be required to be collected as part of a plugging program. It may be too burdensome on the State to continue this program if the WOGCC is required to also collect all required data. Please revise this language to allow the State and the Federal or Tribal entities to design their own agreements as to which entity is responsible for which specific tasks within the program and which data will be collected by each specific entity. This will ensure the highest level of cooperation and ultimately the success of the cooperative programs.

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Second, in Section VIII (C), there is a requirement for States to provide the Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites. This language was revised from earlier drafts, which required States to provide the Federal government access to the project sites, but the language is still not clear that the States will not be required to grant access to the Federal government to state or private (fee) wells. States may not have the authority to grant access to private property to the Federal government. Additionally, States will already have a program to witness the work conducted on state and private wells, so adding witnessing from the Federal government is an inefficient use of funding and staff time – essentially creating a witnessing the witness type of program. While the language requiring access to relevant documentation in State possession is fine, the language related to the access to project sites by the Federal awarding agency should be removed.

Finally, there are several areas where clarification of how States can comply with certain requirements of the program would be beneficial. First, the section on reporting requirements indicates that the States must submit a report no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds. When considered against other language in the BIL and guidance document, the States must also return any funds which have remain "unobligated" after 12 months. It would be helpful to have more clarity in the guidance on what is meant by funds "used" after the 15-month period. For example, does "used" mean paid out to contractors for work conducted for uses allowed by the BIL or if funds are obligated under a contract can those be considered "used"? It may be difficult to issue bids, sign contracts, complete the work, and have all invoices paid within 15 months. Invoicing from contractors and subcontractors can take several months following the completion of the field activities. Understanding if obligated funds can still be used and paid out to contractors after the 15-month period would be helpful in determining the amount of the grant the State will apply for to ensure full compliance and utilization of the funding.

Finally, Section VIII (G) requires all iron, steel, manufactured products, and construction materials used in the project to be produced in the United States. The WOGCC would not be aware of where products supplied to contractors or subcontractors such as bridge plugs, cast iron cement retainers, and other products are manufactured. With the short time periods and quick deadlines for obligation and utilization of the funds required in the initial grant, determining sources of these products or requiring sourcing from certain manufactures may be difficult to comply with. It has been stated that a waiver may be applied for, but no information as to how to apply for a waiver is provided. Please provide more details on potential waivers of these requirements.

Thank you for the opportunity to provide comments. Your review of these comments and revision of the sections of guidance discussed is appreciated.

Sincerely,

Tom Kropatsch
State Oil and Gas Supervisor

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From: Sandoval, Adrienne, EMNRD
Sent: Wednesday, March 23, 2022 5:50 PM EDT
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: FW: [EXTERNAL] UPDATE: Initial Grant Guidance.
Attachment(s): "Letter on Draft State Initial Grant Guidance.pdf","state-initial-grant-guidance-bil IOGCC comments.pdf"

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Wednesday, March 23, 2022 3:47 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] UPDATE: Initial Grant Guidance.

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Attached are the comments I submitted to DOI today on the draft state initial grant guidance.

I will be out of the office from March 24th through April 1st. If you need anything from IOGCC during that time, please let Amy know. I will return to the office on April 4th.

Thanks,
Lori

From: Lori Wrotenbery
Sent: Monday, March 21, 2022 4:53 PM
Subject: UPDATE: Initial Grant Guidance.

Attached is the Orphaned Well Data Reporting Template, which is referenced in the initial grant guidance in paragraph (j) on page 7 and paragraph 2 on page 11. It did not get posted with the guidance as intended, but Steve Tryon asked me to share it with you.

From: Lori Wrotenbery
Sent: Thursday, March 17, 2022 2:58 PM
Subject: RE: UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

Breaking News:

DOI has released the draft initial grant guidance: https://www.doi.gov/pressreleases/biden-harris-administration-releases-draft-guidance-invites-public-comment-new.

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Please let me know if you have any questions.

Thanks,
Lori

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When: Mar 18, 2022 01:00 PM Central Time (US and Canada)
Topic: Review of DOI's Draft Initial Grant Guidance--States Only

Register in advance for this webinar:
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After registering, you will receive a confirmation email containing information about joining the webinar.

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INTERSTATE Oil & Gas COMPACT COMMISSION

900 NE 23rd Street Oklahoma City, Oklahoma 73105
Phone: 405.522.8380 Web: iogcc.ok.gov

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Nevada
New Mexico
New York
North Dakota
Ohio
Oklahoma
Pennsylvania
South Dakota
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Utah
Virginia
West Virginia
Wyoming

March 23, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon,

The Interstate Oil and Gas Compact Commission (IOGCC) is a governmental organization of oil and natural gas producing states. IOGCC's mission is to champion the conservation and efficient recovery of domestic oil and gas resources while protecting health, safety, and the environment. Through IOGCC, regulatory agencies from the 38 member and associate member states assist one another in assessing and strengthening their regulatory programs for the environmentally sound development of oil and gas resources.

IOGCC looks forward to continued collaboration with you on implementation of the orphan well provisions of the Bipartisan Infrastructure Law. The principal objectives of these provisions are to provide jobs and protect communities and the environment by plugging orphan wells, restoring the well sites, and decommissioning associated facilities. The funding for state programs constitutes the largest portion of the total funding provided. DOI and the states will need to work in partnership to build the foundation for successful use of this funding to meet the legislative objectives by accelerating the work already being done by the states.

The IOGCC states have completed an initial review of the draft guidance. I have attempted to capture their key comments, questions, and suggestions in the notes on the attached copy of the draft guidance. You will receive additional comments from individual states. Please consider all of them carefully. The primary responsibility for implementation of the legislation lies with the states. The guidance should support, not hinder, their efforts.

Sincerely,

Lori Wrotenbery

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission

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NM-EMNRD-22-0512-B-000729

FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term ~~also~~:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Subject: FW: [EXTERNAL] Updated invitation: NM TAG #5: Industry, Oil & Gas @ Wed Mar 30, 2022 12pm - 3pm (PDT) (sandra.ely@state.nm.us)
Location: Zoom (see below): https://cbuilding.zoom.us/j/95190047848

Start: Wednesday, March 30, 2022 3:00 PM EDT
End: Wednesday, March 30, 2022 6:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: scarrillomandel@cbi.org
Required Attendees: scarrillomandel@cbi.org <scarrillomandel@cbi.org>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Camilla Feibelman <camilla.feibelman@sierraclub.org>; meales@lucid-energy.com <meales@lucid-energy.com>; james@civicpolicy.com <james@civicpolicy.com>; nlash@cbi.org <nlash@cbi.org>; cydney.beadles@westernresources.org <cydney.beadles@westernresources.org>; esanborn@kitcarson.com <esanborn@kitcarson.com>; rikki@interwest.org <rikki@interwest.org>; dpnm3@juno.com <dpnm3@juno.com>; oburney@nmsu.edu <oburney@nmsu.edu>; vnecochea@nmelc.org <vnecochea@nmelc.org>; rico.gonzales@epelectric.com <rico.gonzales@epelectric.com>; krader@cabq.gov <krader@cabq.gov>; julia.f.bernal@gmail.com <julia.f.bernal@gmail.com>; Borchert, Claudia, ENV <Claudia.Borchert@state.nm.us>; chas@conservationlegacy.org <chas@conservationlegacy.org>; James Carey <bcarey@lanl.gov>; rmartinez@sanipueblo.org <rmartinez@sanipueblo.org>; Weller, AnnaLinden, EMNRD <AnnaLinden.Weller@state.nm.us>; joseph@navaeducationproject.org <joseph@navaeducationproject.org>; tammy.parker@ashiwi.org <tammy.parker@ashiwi.org>; deb@lupinecollaborative.com <deb@lupinecollaborative.com>; pacyniak@law.unm.edu <pacyniak@law.unm.edu>; Ely, Sandra, ENV <Sandra.Ely@state.nm.us>; Taylor, Erin, EMNRD <Erin.Taylor@state.nm.us>; loecleancities@newmexico.com <loecleancities@newmexico.com>; chads@nmflb.org <chads@nmflb.org>; rgolten@cbi.org <rgolten@cbi.org>; erinellenedayl@gmail.com <erinellenedayl@gmail.com>; james.povijua@gmail.com <james.povijua@gmail.com>; Lohmann, Maria, EMNRD <Maria.Lohmann@state.nm.us>; amillernm <amillernm@gmail.com>; dponm2@gmail.com <dponm2@gmail.com>; ejantz@nmelc.org <ejantz@nmelc.org>; josue@civicpolicy.com <josue@civicpolicy.com>; Nathan Welch <nwelch@lanl.gov>; pat.oconnell@westernresources.org <pat.oconnell@westernresources.org>; priscillalucero@swnmcog.org <priscillalucero@swnmcog.org>; gerald.weseen@nmgco.com <gerald.weseen@nmgco.com>; mlynch@navajo-nsn.gov <mlynch@navajo-nsn.gov>; patrick_padilla@eogresources.com <patrick_padilla@eogresources.com>; valinda.shirley@navajo-nsn.gov <valinda.shirley@navajo-nsn.gov>; decastillo@cabq.gov <decastillo@cabq.gov>; jordan_kessler@eogresources.com <jordan_kessler@eogresources.com>
Attachment(s): "invite.ics"

-----Original Appointment-----
From: scarrillomandel@cbi.org <scarrillomandel@cbi.org>
Sent: Friday, January 28, 2022 1:03 PM
To: scarrillomandel@cbi.org; Camilla Feibelman; meales@lucid-energy.com; james@civicpolicy.com; nlash@cbi.org; cydney.beadles@westernresources.org; esanborn@kitcarson.com; rikki@interwest.org; dpnm3@juno.com; oburney@nmsu.edu; vnecochea@nmelc.org; rico.gonzales@epelectric.com; krader@cabq.gov; julia.f.bernal@gmail.com; Borchert, Claudia, ENV; chas@conservationlegacy.org; James Carey; rmartinez@sanipueblo.org; Weller, AnnaLinden, EMNRD; joseph@navaeducationproject.org; tammy.parker@ashiwi.org; deb@lupinecollaborative.com; pacyniak@law.unm.edu; Ely, Sandra, ENV; Taylor, Erin, EMNRD; loecleancities@newmexico.com; chads@nmflb.org; rgolten@cbi.org; erinellenedayl@gmail.com; james.povijua@gmail.com; Lohmann, Maria, EMNRD; amillernm; dponm2@gmail.com; ejantz@nmelc.org; josue@civicpolicy.com; Nathan Welch; pat.oconnell@westernresources.org; priscillalucero@swnmcog.org; gerald.weseen@nmgco.com; mlynch@navajo-nsn.gov; patrick_padilla@eogresources.com; valinda.shirley@navajo-nsn.gov; decastillo@cabq.gov; jordan_kessler@eogresources.com
Subject: [EXTERNAL] Updated invitation: NM TAG #5: Industry, Oil & Gas @ Wed Mar 30, 2022 12pm - 3pm (PDT) (sandra.ely@state.nm.us)
When: Wednesday, March 30, 2022 1:00 PM-4:00 PM (UTC-07:00) Mountain Time (US & Canada).
Where: Zoom (see below): https://cbuilding.zoom.us/j/95190047848

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

This event has been changed.

Changed: NM TAG #5: Industry, Oil & Gas

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When Wed Mar 30, 2022 12pm – 3pm Pacific Time - Los Angeles

Where **Changed:** Zoom (see below): https://cbuilding.zoom.us/j/95190047848 (map)

Calendar sandra.ely@state.nm.us

Who
- scarrillomandel@cbi.org - organizer
- deb@lupinecollaborative.com - creator
- Camilla Feibelman
- meales@lucid-energy.com
- james@civicpolicy.com
- nlash@cbi.org
- cydney.beadles@westernresources.org
- esanborn@kitcarson.com
- rikki@interwest.org
- dpnm3@juno.com
- oburney@nmsu.edu
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- krader@cabq.gov
- julia.f.bernal@gmail.com
- claudia.borchert@state.nm.us
- chas@conservationlegacy.org
- James Carey
- rmartinez@sanipueblo.org
- annalinden.weller@state.nm.us
- joseph@navaeducationproject.org
- tammy.parker@ashiwi.org
- pacyniak@law.unm.edu
- sandra.ely@state.nm.us
- erin.taylor@state.nm.us
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- chads@nmflb.org
- rgolten@cbi.org
- erinellenedayl@gmail.com
- james.povijua@gmail.com
- maria.lohmann@state.nm.us
- amillernm@gmail.com
- dponm2@gmail.com
- ejantz@nmelc.org
- josue@civicpolicy.com
- Nathan Welch
- pat.oconnell@westernresources.org
- priscillalucero@swnmcog.org
- gerald.weseen@nmgco.com
- mlynch@navajo-nsn.gov
- patrick_padilla@eogresources.com
- valinda.shirley@navajo-nsn.gov
- decastillo@cabq.gov
- jordan_kessler@eogresources.com

more details »

Changed:

https://cbuilding.zoom.us/j/95190047848 | Meeting ID: 951 9004 7848

Dial by your location

+1 669 900 6833 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Going (sandra.ely@state.nm.us)? **Yes** - **Maybe** - **No** more options »

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Invitation from Google Calendar

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Forwarding this invitation could allow any recipient to send a response to the organizer and be added to the guest list, or invite others regardless of their own invitation status, or to modify your RSVP. Learn More.

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Subject: NM TAG #5: Industry, Oil & Gas
Location: Zoom (see below): https://cbuilding.zoom.us/j/95190047848
Start: Wednesday, March 30, 2022 3:00 PM EDT
End: Wednesday, March 30, 2022 6:00 PM EDT
Recurrence: None
Organizer: scarrillomandel@cbi.org
Required Attendees: camilla.feibelman@sierraclub.org; meales@lucid-energy.com; james@civicpolicy.com; nlash@cbi.org; cydney.beadles@westernresources.org; esanborn@kitcarson.com; rikki@interwest.org; dpnm3@juno.com; oburney@nmsu.edu; vnecochea@nmelc.org; rico.gonzales@epelectric.com; krader@cabq.gov; julia.f.bernal@gmail.com; claudia.borchert@state.nm.us; chas@conservationlegacy.org; bcarey@lanl.gov; rmartinez@sanipueblo.org; annalinden.weller@state.nm.us; joseph@navaeducationproject.org; tammy.parker@ashiwi.org; deb@lupinecollaborative.com; pacyniak@law.unm.edu; sandra.ely@state.nm.us; erin.taylor@state.nm.us; loecleancities@newmexico.com; chads@nmflb.org; rgolten@cbi.org; erinellenedayl@gmail.com; james.povijua@gmail.com; maria.lohmann@state.nm.us; amillernm@gmail.com; dponm2@gmail.com; ejantz@nmelc.org; josue@civicpolicy.com; nwelch@lanl.gov; pat.oconnell@westernresources.org; priscillalucero@swnmcog.org; gerald.weseen@nmgco.com; mlynch@navajo-nsn.gov; patrick_padilla@eogresources.com; valinda.shirley@navajo-nsn.gov; decastillo@cabq.gov; jordan_kessler@eogresources.com

https://cbuilding.zoom.us/j/95190047848 | Meeting ID: 951 9004 7848 Dial by your location +1 669 900 6833 US (San Jose) +1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston) -::~:~::~::~:~::- Do not edit this section of the description. View your event at https://calendar.google.com/calendar/event?action=VIEW&eid=NGN2NWR1N2Z1cXJzcGl1Ym1pbmdoMzhpaWogc2FuZHJhLmVseUBzdGF0ZS5ubS51cw&tok=MjMjc2NhcnJpbGxvbWFuZGVsQGNiaS5vcmc0Nml5YWM4NzhmZDNmMTIwN2Y4N-::~:~::~::~:~::-

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 19, 2022 8:12 PM EDT
To: Vanessa Fields <vfields@logosresourcesllc.com>; Ryan Davis <rdavis@merrion.bz>
Subject: FW: C115-C115B Notice
Attachment(s): "4-19-22 NOTICE C115B-C115 FAQ.pdf"

See attached. Just wanted to make sure you saw this.

From: Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>
Sent: Tuesday, April 19, 2022 2:01 PM
To: A. Blair Dunn Esq. (abdunn@ablairdunn-esq.com) <abdunn@ablairdunn-esq.com>; Adam Rankin <AGRankin@hollandhart.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marks,Allison <amarks@slo.state.nm.us>; Shaw, Alysha <ashaw@slo.state.nm.us>; Amy N. Carl (acarl@targaresources.com) <acarl@targaresources.com>; Repka, Angie <angie.repka@exxonmobil.com>; Anna M. Williamson (awilliamson@cilawnm.com) <awilliamson@cilawnm.com>; abiernoff@slo.state.nm.us; Balch (balch@prrc.nmt.edu) <balch@prrc.nmt.edu>; Ryan, Beth (LDZX) <Beth.Ryan@conocophillips.com>; bdwilliams@marathonoil.com; (ballen@sesi-nm.com) <ballen@sesi-nm.com>; Brandon Hajny <BHajny@cilawnm.com>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Brian Hall (bhall@marathonoil.com) <bhall@marathonoil.com>; Bryce Smith (bsmith@modrall.com) <bsmith@modrall.com>; chart@catenares.com; Candace Callahan <CCallahan@bwenergylaw.com>; Marathon Oil Corporation (cfrice@marathonoil.com) <cfrice@marathonoil.com>; Chelsey Green (Chelsey.green@dvn.com) <Chelsey.green@dvn.com>; Chris Killion (ckillion@modrall.com) <ckillion@modrall.com>; Christian Combs <ccombs@taprk.com>; D Hawthorne (dhawthorne@ntglobal.com) <dhawthorne@ntglobal.com>; D. 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Subject: C115-C115B Notice

Good Afternoon:

Please see the attached notice regarding the interplay between the C-115 and C-115B reports.

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Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division

NOTICE

INFORMATION ON C-115Bs and C-115s INCLUDING FREQUENTLY ASKED QUESTIONS, REPORTING CODES AND CALCULATION METHODS.

April 19, 2022

As part of ongoing stakeholder engagement, the Oil Conservation Division ("OCD") provides guidance, information, and answers Frequently Asked Questions ("FAQs") regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This FAQ and Guidance specifically addresses C-115B reporting and its relationship to C-115 reporting.

Going forward, OCD will release additional and/or updated FAQs and Guidance as necessary. To help identify areas where such additional guidance would be helpful, please continue to submit questions to: OCD.Engineer@state.nm.us

Disclaimer

This information is guidance only and is not legally binding, does not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend this information any time, for any reason, and without notice.

C-115 Production Reporting

Question #1 What should be reported as gas produced on the C-115?
All gas produced from the well is required to be reported on the C-115 and is regulated by 19.15.19.9 NMAC. The disposition codes may vary depending on how the gas is being used. All Disposition Codes should be accurately reported and accounted for on the production side of the C-115. Balancing of the total production and disposition codes is crucial when reporting the C-115 as it affects both the C-115 and the C-115B reporting, which ultimately informs operator baselines and compliance with our rules.

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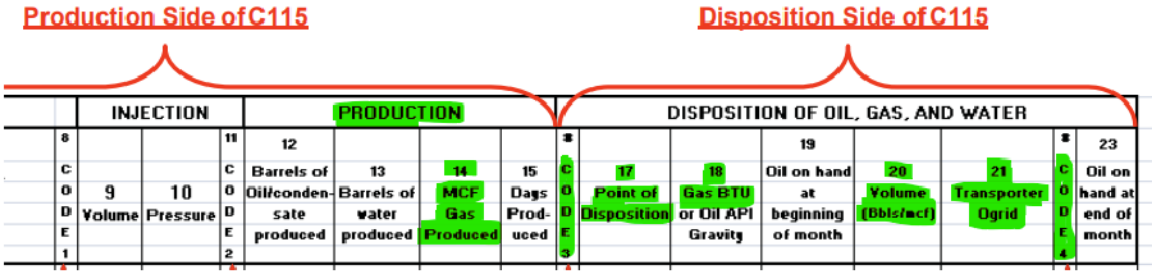
NM-EMNRD-22-0512-B-000751

There are no exceptions, all gas types should be properly reported on both the production and disposition side of the C-115.

Example: Gas reported as vented from pneumatics, maintenance, gas lift and stock tanks needs to be included in both the Production side (Column 14) and the Disposition side of the C-115 (Columns 16, 17, 18, 20 and 22). An example of the proper columns is highlighted below.



Rule Citation

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. *The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.*

C-115 and C-115B Reporting Correlation

Question #2: How should pneumatics and Stock tank vapors be reported on the C-115?

Gas reporting of pneumatic devices and tank vapors on the C-115 is regulated by 19.15.19.9 NMAC. All gas produced from the well is required to be reported. The disposition codes may vary depending on how the gas is being used. Gas from pneumatics should be reported on the disposition code "used on lease" and gas vented from tanks should be reported as "gas vented".

Question #3: How should Gas lift be reported on the C-115B and C-115?

For reporting on the C-115, all gas produced from the well is required to be reported, both on the production side and the disposition side. Gas from Gas Lift should be properly reported as produced gas from the well and then properly reported on the "Gas Lift" disposition code. If any gas from the gas lift is vented or flared during the process, the gas should be reported on the G disposition code in the C-115. Any gas that is part of the gas lift that is not reinjected should then be accurately reported in the C-115B.

Reporting to Other Agencies

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Question #4: How should an Operator report to the State Land Office (SLO) pursuant to 19.15.27.8.G(4) NMAC?

Operators should work with the SLO to understand the format they would like the information submitted.

Reporting Gas volumes.

Question #5: How should operators round gas volumes on the C-115B that are less than 1 MCF?

We understand that operators may be utilizing standard rounding principles when they report. That approach is fine in the interim; however, OCD is looking at this issue and will provide additional guidance, if necessary.

Question #6: How is the OCD going to handle gas volumes that are amended on the C-115 or C-115B after the baseline percentages are established, specifically if that amendment will change the baseline percentage?

OCD is evaluating potential long-term solutions that will require written verifications prior to changing a baseline percentage. Once finalized, OCD will announce the change and any associated process.

Question #7 If an operator doesn't vent or flare gas do they still need to file a C-115B?

Yes. The reporting obligation applies to any New Mexico operator with qualifying wells or facilities, regardless of if sites vented or flared in the covered reporting period. Operators should report 0 for a well or facility reporting category if there has been no venting or flaring during the reporting time period. However, prior to reporting zeros ensure your operations do not vent or flare, including from sources like stock tanks, maintenance events, pneumatics, etc. See Well and Facility Reporting Rules in the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/.

Question #8 Where is the change of custody point for C-115Bs for Upstream vs Midstream

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Operations upstream of the sales meter are regulated under Part 27; Operations downstream of the sales meter are regulated under Part 28.

Question #9 How do operators report on the C-115B, or where can we access the form?

Please see the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/

Question #10 What are OCD's guidelines on methods used to estimate volumes?

The OCD rules state Operators "may estimate the volume of vented or flared natural gas using a methodology that can be independently verified". OCD recommends using methods that are accepted in industry and independently verifiable by a third-party

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reviewer. Some methodologies may be standards or formulas from organizations such as API, EPA, or other similar tools.

C-115 and C-115B Reporting Code Crosswalks

Below is a basic description of the C-115 Non-Transported Disposition codes and a crosswalk on how the disposition codes relate between the C-115 and C-115B.

C-115 Non-Transported Disposition Codes.

Code	Code Title	Brief Description
F	Flaring	For gas that is flared
G	Gas Lift	For gas from Gas Lift
L	Lost	Gas unintentionally vented (Typically due to a malfunction or emergency)
R	Repressurizing	When repressurizing a well or system
U	Used on Property	Gas used beneficially onsite
V	Venting	Gas intentionally vented onsite
O	Other	Any item not described above.

Code Crosswalk

C-115B Codes	C-115 Gas Disposition Codes
Beneficial Use	Used on Property
Emergency: 19.15.27.8(G)(2)(a) NMAC	Lost
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Used on Property
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Venting or Flared
Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC	Venting or Flared

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Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC	Venting or Flared- for Maintenance, Lost- for a Malfunction.
Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC	Venting or Flared
Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC	Venting or Flared
Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC	Venting or Flared
Storage Tanks: 19.15.27.8(G)(2)(f) NMAC	Venting or Flared
Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC	Venting or Flared
Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC	Lost
Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC	Venting or Flared

C-115B Visual Equations based on 19.15.27 and 19.15.28 NMAC

Rule Citation
19.15.27.8(G)(3) "Upstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall deduct the volume of natural gas sold, used for beneficial use, vented or flared during an emergency, and vented or flared because it was not suitable for transportation or processing due to N_2, H_2S, or CO_2 concentrations, vented as a result of normal operation of pneumatic controllers and pumps if reported pursuant to Subparagraph (i) of Paragraph (2) of Subsection G of 19.15.27.8 NMAC, or vented or flared from an exploratory well with division approval from the natural gas produced.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection G of 19.15.27.8 NMAC from the total volume of natural gas produced and divide by the total volume of natural gas produced.*

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Equation:

(a) Lost Natural Gas (Volumetric) = OGRID total produced gas volume – gas sold – beneficial use – emergency use – not suitable for transport (excludes O2) – normal operations (pneumatics) – exploratory well volumes

(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115) - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115)}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Volume Natural Gas Sold	Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC
Beneficial Use	Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC
Emergency: 19.15.27.8(G)(2)(a) NMAC	Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Storage Tanks: 19.15.27.8(G)(2)(f) NMAC
	Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC
	Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC
	Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC

Rule Citation
19.15.28.8 (F)(3) "Midstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall sum the volume of natural gas reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.*

Equation:

(a) Lost Natural Gas (Volumetric) = non-scheduled maintenance or malfunction + routine repair and maintenance + gathering pipeline blowdown and purging + gathering pipeline pigging + storage tanks + improperly closed or maintained thief hatches + other surface waste

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(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ gathered\ gas\ volume - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ gathered\ gas\ volume}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Emergency: 19.15.28.8(F)(2)(a) NMAC	**Non-Scheduled Maintenance or Malfunction: 19.15.28.8(F)(2)(b) NMAC**
Beneficial Use: 19.15.28.8(F)(2)(d) NMAC	**Routine Repair and Maintenance: 19.15.28.8(F)(2)(c) NMAC**
Venting as Result of Normal Operation of Pneumatic Controllers and Pumps: 19.15.28.8(F)(2)(h) NMAC	**Gathering Pipeline Blowdown and Purging: 19.15.28.8(F)(2)(e) NMAC**
	Gathering Pipeline Pigging: 19.15.28.8(F)(2)(F) NMAC
	Storage Tanks: 19.15.28.8(F)(2)(g) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.28.8(F)(2)(i) NMAC
	Other Surface Waste: 19.15.28.8(F)(2)(j) NMAC

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 19, 2022 7:14 PM EDT
To: Smyth, Tiffany, TRD <Tiffany.Smyth2@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: C115-C115B Notice
Attachment(s): "4-19-22 NOTICE C115B-C115 FAQ.pdf"

Attached is the notice we put out today

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Sent: Tuesday, April 19, 2022 2:01 PM
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Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: C115-C115B Notice

Good Afternoon:

Please see the attached notice regarding the interplay between the C-115 and C-115B reports.

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Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division

NOTICE

INFORMATION ON C-115Bs and C-115s INCLUDING FREQUENTLY ASKED QUESTIONS, REPORTING CODES AND CALCULATION METHODS.

April 19, 2022

As part of ongoing stakeholder engagement, the Oil Conservation Division ("OCD") provides guidance, information, and answers Frequently Asked Questions ("FAQs") regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This FAQ and Guidance specifically addresses C-115B reporting and its relationship to C-115 reporting.

Going forward, OCD will release additional and/or updated FAQs and Guidance as necessary. To help identify areas where such additional guidance would be helpful, please continue to submit questions to: OCD.Engineer@state.nm.us

Disclaimer

This information is guidance only and is not legally binding, does not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend this information any time, for any reason, and without notice.

C-115 Production Reporting

Question #1 What should be reported as gas produced on the C-115?
All gas produced from the well is required to be reported on the C-115 and is regulated by 19.15.19.9 NMAC. The disposition codes may vary depending on how the gas is being used. All Disposition Codes should be accurately reported and accounted for on the production side of the C-115. Balancing of the total production and disposition codes is crucial when reporting the C-115 as it affects both the C-115 and the C-115B reporting, which ultimately informs operator baselines and compliance with our rules.

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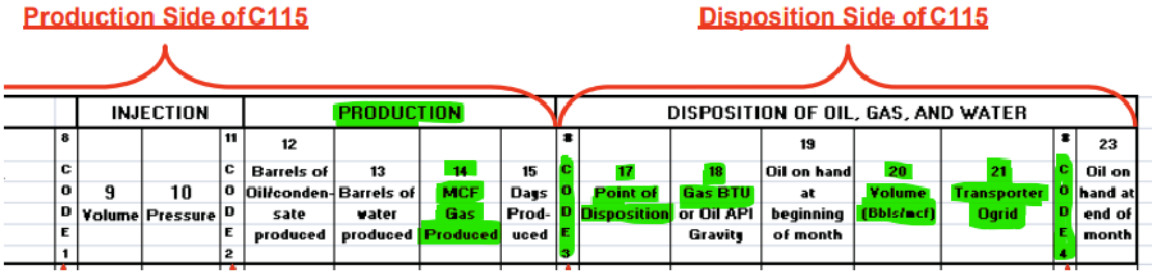
NM-EMNRD-22-0512-B-000760

There are no exceptions, all gas types should be properly reported on both the production and disposition side of the C-115.

Example: Gas reported as vented from pneumatics, maintenance, gas lift and stock tanks needs to be included in both the Production side (Column 14) and the Disposition side of the C-115 (Columns 16, 17, 18, 20 and 22). An example of the proper columns is highlighted below.



Rule Citation

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. *The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.*

C-115 and C-115B Reporting Correlation

Question #2: How should pneumatics and Stock tank vapors be reported on the C-115?

Gas reporting of pneumatic devices and tank vapors on the C-115 is regulated by 19.15.19.9 NMAC. All gas produced from the well is required to be reported. The disposition codes may vary depending on how the gas is being used. Gas from pneumatics should be reported on the disposition code "used on lease" and gas vented from tanks should be reported as "gas vented".

Question #3: How should Gas lift be reported on the C-115B and C-115?

For reporting on the C-115, all gas produced from the well is required to be reported, both on the production side and the disposition side. Gas from Gas Lift should be properly reported as produced gas from the well and then properly reported on the "Gas Lift" disposition code. If any gas from the gas lift is vented or flared during the process, the gas should be reported on the G disposition code in the C-115. Any gas that is part of the gas lift that is not reinjected should then be accurately reported in the C-115B.

Reporting to Other Agencies

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Question #4: How should an Operator report to the State Land Office (SLO) pursuant to 19.15.27.8.G(4) NMAC?

Operators should work with the SLO to understand the format they would like the information submitted.

Reporting Gas volumes.

Question #5: How should operators round gas volumes on the C-115B that are less than 1 MCF?

We understand that operators may be utilizing standard rounding principles when they report. That approach is fine in the interim; however, OCD is looking at this issue and will provide additional guidance, if necessary.

Question #6: How is the OCD going to handle gas volumes that are amended on the C-115 or C-115B after the baseline percentages are established, specifically if that amendment will change the baseline percentage?

OCD is evaluating potential long-term solutions that will require written verifications prior to changing a baseline percentage. Once finalized, OCD will announce the change and any associated process.

Question #7 If an operator doesn't vent or flare gas do they still need to file a C-115B?

Yes. The reporting obligation applies to any New Mexico operator with qualifying wells or facilities, regardless of if sites vented or flared in the covered reporting period. Operators should report 0 for a well or facility reporting category if there has been no venting or flaring during the reporting time period. However, prior to reporting zeros ensure your operations do not vent or flare, including from sources like stock tanks, maintenance events, pneumatics, etc. See Well and Facility Reporting Rules in the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/.

Question #8 Where is the change of custody point for C-115Bs for Upstream vs Midstream

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Operations upstream of the sales meter are regulated under Part 27; Operations downstream of the sales meter are regulated under Part 28.

Question #9 How do operators report on the C-115B, or where can we access the form?

Please see the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/

Question #10 What are OCD's guidelines on methods used to estimate volumes?

The OCD rules state Operators "may estimate the volume of vented or flared natural gas using a methodology that can be independently verified". OCD recommends using methods that are accepted in industry and independently verifiable by a third-party

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reviewer. Some methodologies may be standards or formulas from organizations such as API, EPA, or other similar tools.

C-115 and C-115B Reporting Code Crosswalks

Below is a basic description of the C-115 Non-Transported Disposition codes and a crosswalk on how the disposition codes relate between the C-115 and C-115B.

C-115 Non-Transported Disposition Codes.

Code	Code Title	Brief Description
F	Flaring	For gas that is flared
G	Gas Lift	For gas from Gas Lift
L	Lost	Gas unintentionally vented (Typically due to a malfunction or emergency)
R	Repressurizing	When repressurizing a well or system
U	Used on Property	Gas used beneficially onsite
V	Venting	Gas intentionally vented onsite
O	Other	Any item not described above.

Code Crosswalk

C-115B Codes	C-115 Gas Disposition Codes
Beneficial Use	Used on Property
Emergency: 19.15.27.8(G)(2)(a) NMAC	Lost
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Used on Property
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Venting or Flared
Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC	Venting or Flared

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Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC	Venting or Flared- for Maintenance, Lost- for a Malfunction.
Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC	Venting or Flared
Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC	Venting or Flared
Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC	Venting or Flared
Storage Tanks: 19.15.27.8(G)(2)(f) NMAC	Venting or Flared
Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC	Venting or Flared
Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC	Lost
Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC	Venting or Flared

C-115B Visual Equations based on 19.15.27 and 19.15.28 NMAC

Rule Citation
19.15.27.8(G)(3) "Upstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall deduct the volume of natural gas sold, used for beneficial use, vented or flared during an emergency, and vented or flared because it was not suitable for transportation or processing due to N_2, H_2S, or CO_2 concentrations, vented as a result of normal operation of pneumatic controllers and pumps if reported pursuant to Subparagraph (i) of Paragraph (2) of Subsection G of 19.15.27.8 NMAC, or vented or flared from an exploratory well with division approval from the natural gas produced.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection G of 19.15.27.8 NMAC from the total volume of natural gas produced and divide by the total volume of natural gas produced.*

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Equation:

(a) Lost Natural Gas (Volumetric) = OGRID total produced gas volume – gas sold – beneficial use – emergency use – not suitable for transport (excludes O2) – normal operations (pneumatics) – exploratory well volumes

(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115){-}Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115)}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Volume Natural Gas Sold	Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC
Beneficial Use	Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC
Emergency: 19.15.27.8(G)(2)(a) NMAC	Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Storage Tanks: 19.15.27.8(G)(2)(f) NMAC
	Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC
	Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC
	Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC

Rule Citation
19.15.28.8 (F)(3) "Midstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall sum the volume of natural gas reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.*

Equation:

(a) Lost Natural Gas (Volumetric) = non-scheduled maintenance or malfunction + routine repair and maintenance + gathering pipeline blowdown and purging + gathering pipeline pigging + storage tanks + improperly closed or maintained thief hatches + other surface waste

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(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ gathered\ gas\ volume - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ gathered\ gas\ volume}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Emergency: 19.15.28.8(F)(2)(a) NMAC	**Non-Scheduled Maintenance or Malfunction: 19.15.28.8(F)(2)(b) NMAC**
Beneficial Use: 19.15.28.8(F)(2)(d) NMAC	**Routine Repair and Maintenance: 19.15.28.8(F)(2)(c) NMAC**
Venting as Result of Normal Operation of Pneumatic Controllers and Pumps: 19.15.28.8(F)(2)(h) NMAC	**Gathering Pipeline Blowdown and Purging: 19.15.28.8(F)(2)(e) NMAC**
	Gathering Pipeline Pigging: 19.15.28.8(F)(2)(F) NMAC
	Storage Tanks: 19.15.28.8(F)(2)(g) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.28.8(F)(2)(i) NMAC
	Other Surface Waste: 19.15.28.8(F)(2)(j) NMAC

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From: Sandoval, Adrienne, EMNRD
Sent: Wednesday, April 20, 2022 4:22 PM EDT
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>; Bustamante, Amalia, EMNRD <Amalia.Bustamante@state.nm.us>; Aragon, JoeA, EMNRD <JoeA.Aragon@state.nm.us>
Subject: FW: C115-C115B Notice
Attachment(s): "4-19-22 NOTICE C115B-C115 FAQ.pdf"

Attached is the notice we discussed yesterday in our meeting.

From: Salvidrez, Marlene, EMNRD <Marlene.Salvidrez@state.nm.us>
Sent: Tuesday, April 19, 2022 2:01 PM
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Subject: C115-C115B Notice

Good Afternoon:

Please see the attached notice regarding the interplay between the C-115 and C-115B reports.

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Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division

NOTICE

INFORMATION ON C-115Bs and C-115s INCLUDING FREQUENTLY ASKED QUESTIONS, REPORTING CODES AND CALCULATION METHODS.

April 19, 2022

As part of ongoing stakeholder engagement, the Oil Conservation Division ("OCD") provides guidance, information, and answers Frequently Asked Questions ("FAQs") regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This FAQ and Guidance specifically addresses C-115B reporting and its relationship to C-115 reporting.

Going forward, OCD will release additional and/or updated FAQs and Guidance as necessary. To help identify areas where such additional guidance would be helpful, please continue to submit questions to: OCD.Engineer@state.nm.us

Disclaimer

This information is guidance only and is not legally binding, does not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend this information any time, for any reason, and without notice.

C-115 Production Reporting

Question #1 What should be reported as gas produced on the C-115?
All gas produced from the well is required to be reported on the C-115 and is regulated by 19.15.19.9 NMAC. The disposition codes may vary depending on how the gas is being used. All Disposition Codes should be accurately reported and accounted for on the production side of the C-115. Balancing of the total production and disposition codes is crucial when reporting the C-115 as it affects both the C-115 and the C-115B reporting, which ultimately informs operator baselines and compliance with our rules.

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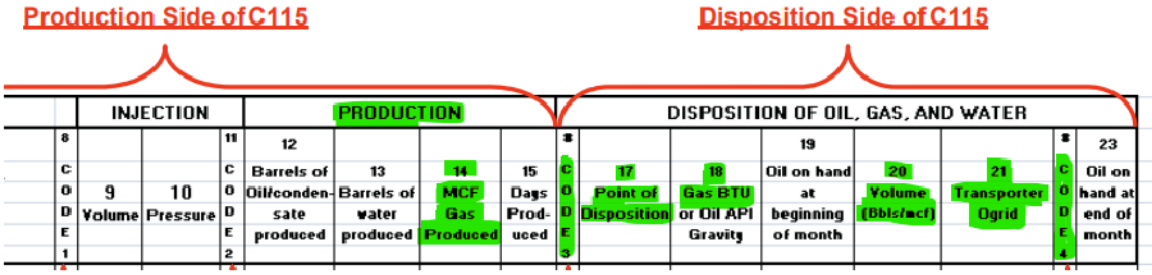
There are no exceptions, all gas types should be properly reported on both the production and disposition side of the C-115.

Example: Gas reported as vented from pneumatics, maintenance, gas lift and stock tanks needs to be included in both the Production side (Column 14) and the Disposition side of the C-115 (Columns 16, 17, 18, 20 and 22). An example of the proper columns is highlighted below.



Rule Citation

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. *The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.*

C-115 and C-115B Reporting Correlation

Question #2: How should pneumatics and Stock tank vapors be reported on the C-115?

Gas reporting of pneumatic devices and tank vapors on the C-115 is regulated by 19.15.19.9 NMAC. All gas produced from the well is required to be reported. The disposition codes may vary depending on how the gas is being used. Gas from pneumatics should be reported on the disposition code “used on lease” and gas vented from tanks should be reported as “gas vented”.

Question #3: How should Gas lift be reported on the C-115B and C-115?

For reporting on the C-115, all gas produced from the well is required to be reported, both on the production side and the disposition side. Gas from Gas Lift should be properly reported as produced gas from the well and then properly reported on the “Gas Lift” disposition code. If any gas from the gas lift is vented or flared during the process, the gas should be reported on the G disposition code in the C-115. Any gas that is part of the gas lift that is not reinjected should then be accurately reported in the C-115B.

Reporting to Other Agencies

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Question #4: How should an Operator report to the State Land Office (SLO) pursuant to 19.15.27.8.G(4) NMAC?

Operators should work with the SLO to understand the format they would like the information submitted.

Reporting Gas volumes.

Question #5: How should operators round gas volumes on the C-115B that are less than 1 MCF?

We understand that operators may be utilizing standard rounding principles when they report. That approach is fine in the interim; however, OCD is looking at this issue and will provide additional guidance, if necessary.

Question #6: How is the OCD going to handle gas volumes that are amended on the C-115 or C-115B after the baseline percentages are established, specifically if that amendment will change the baseline percentage?

OCD is evaluating potential long-term solutions that will require written verifications prior to changing a baseline percentage. Once finalized, OCD will announce the change and any associated process.

Question #7 If an operator doesn't vent or flare gas do they still need to file a C-115B?

Yes. The reporting obligation applies to any New Mexico operator with qualifying wells or facilities, regardless of if sites vented or flared in the covered reporting period. Operators should report 0 for a well or facility reporting category if there has been no venting or flaring during the reporting time period. However, prior to reporting zeros ensure your operations do not vent or flare, including from sources like stock tanks, maintenance events, pneumatics, etc. See Well and Facility Reporting Rules in the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/.

Question #8 Where is the change of custody point for C-115Bs for Upstream vs Midstream

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Operations upstream of the sales meter are regulated under Part 27; Operations downstream of the sales meter are regulated under Part 28.

Question #9 How do operators report on the C-115B, or where can we access the form?

Please see the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/

Question #10 What are OCD's guidelines on methods used to estimate volumes?

The OCD rules state Operators "may estimate the volume of vented or flared natural gas using a methodology that can be independently verified". OCD recommends using methods that are accepted in industry and independently verifiable by a third-party

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reviewer. Some methodologies may be standards or formulas from organizations such as API, EPA, or other similar tools.

C-115 and C-115B Reporting Code Crosswalks

Below is a basic description of the C-115 Non-Transported Disposition codes and a crosswalk on how the disposition codes relate between the C-115 and C-115B.

C-115 Non-Transported Disposition Codes.

Code	Code Title	Brief Description
F	Flaring	For gas that is flared
G	Gas Lift	For gas from Gas Lift
L	Lost	Gas unintentionally vented (Typically due to a malfunction or emergency)
R	Repressurizing	When repressurizing a well or system
U	Used on Property	Gas used beneficially onsite
V	Venting	Gas intentionally vented onsite
O	Other	Any item not described above.

Code Crosswalk

C-115B Codes	C-115 Gas Disposition Codes
Beneficial Use	Used on Property
Emergency: 19.15.27.8(G)(2)(a) NMAC	Lost
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Used on Property
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Venting or Flared
Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC	Venting or Flared

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Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC	Venting or Flared- for Maintenance, Lost- for a Malfunction.
Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC	Venting or Flared
Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC	Venting or Flared
Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC	Venting or Flared
Storage Tanks: 19.15.27.8(G)(2)(f) NMAC	Venting or Flared
Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC	Venting or Flared
Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC	Lost
Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC	Venting or Flared

C-115B Visual Equations based on 19.15.27 and 19.15.28 NMAC

Rule Citation
19.15.27.8(G)(3) "Upstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall deduct the volume of natural gas sold, used for beneficial use, vented or flared during an emergency, and vented or flared because it was not suitable for transportation or processing due to N_2, H_2S, or CO_2 concentrations, vented as a result of normal operation of pneumatic controllers and pumps if reported pursuant to Subparagraph (i) of Paragraph (2) of Subsection G of 19.15.27.8 NMAC, or vented or flared from an exploratory well with division approval from the natural gas produced.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection G of 19.15.27.8 NMAC from the total volume of natural gas produced and divide by the total volume of natural gas produced.*

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Equation:

(a) Lost Natural Gas (Volumetric) = OGRID total produced gas volume – gas sold – beneficial use – emergency use – not suitable for transport (excludes O2) – normal operations (pneumatics) – exploratory well volumes

(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115){-}Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115)}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Volume Natural Gas Sold	Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC
Beneficial Use	Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC
Emergency: 19.15.27.8(G)(2)(a) NMAC	Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Storage Tanks: 19.15.27.8(G)(2)(f) NMAC
	Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC
	Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC
	Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC

Rule Citation
19.15.28.8 (F)(3) "Midstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall sum the volume of natural gas reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.*

Equation:

(a) Lost Natural Gas (Volumetric) = non-scheduled maintenance or malfunction + routine repair and maintenance + gathering pipeline blowdown and purging + gathering pipeline pigging + storage tanks + improperly closed or maintained thief hatches + other surface waste

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(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ gathered\ gas\ volume - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ gathered\ gas\ volume}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Emergency: 19.15.28.8(F)(2)(a) NMAC	**Non-Scheduled Maintenance or Malfunction: 19.15.28.8(F)(2)(b) NMAC**
Beneficial Use: 19.15.28.8(F)(2)(d) NMAC	**Routine Repair and Maintenance: 19.15.28.8(F)(2)(c) NMAC**
Venting as Result of Normal Operation of Pneumatic Controllers and Pumps: 19.15.28.8(F)(2)(h) NMAC	**Gathering Pipeline Blowdown and Purging: 19.15.28.8(F)(2)(e) NMAC**
	Gathering Pipeline Pigging: 19.15.28.8(F)(2)(F) NMAC
	Storage Tanks: 19.15.28.8(F)(2)(g) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.28.8(F)(2)(i) NMAC
	Other Surface Waste: 19.15.28.8(F)(2)(j) NMAC

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Sent: Wednesday, April 20, 2022 4:20 PM EDT
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Subject: FW: C115-C115B Notice
Attachment(s): "4-19-22 NOTICE C115B-C115 FAQ.pdf"

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Subject: C115-C115B Notice

Good Afternoon:

Please see the attached notice regarding the interplay between the C-115 and C-115B reports.

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Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd E. Leahy, JD, PhD
Deputy Secretary

Adrienne Sandoval, Division Director
Oil Conservation Division

NOTICE

INFORMATION ON C-115Bs and C-115s INCLUDING FREQUENTLY ASKED QUESTIONS, REPORTING CODES AND CALCULATION METHODS.

April 19, 2022

As part of ongoing stakeholder engagement, the Oil Conservation Division ("OCD") provides guidance, information, and answers Frequently Asked Questions ("FAQs") regarding the Natural Gas Waste Rules, 19.15.27 and 19.15.28 NMAC, which went into effect on May 25, 2021. This FAQ and Guidance specifically addresses C-115B reporting and its relationship to C-115 reporting.

Going forward, OCD will release additional and/or updated FAQs and Guidance as necessary. To help identify areas where such additional guidance would be helpful, please continue to submit questions to: OCD.Engineer@state.nm.us

Disclaimer

This information is guidance only and is not legally binding, does not create any rights or obligations in any person, and cannot be cited as legal authority in any civil, criminal, or administrative action or proceeding. OCD reserves the right to amend this information any time, for any reason, and without notice.

C-115 Production Reporting

Question #1 What should be reported as gas produced on the C-115?
All gas produced from the well is required to be reported on the C-115 and is regulated by 19.15.19.9 NMAC. The disposition codes may vary depending on how the gas is being used. All Disposition Codes should be accurately reported and accounted for on the production side of the C-115. Balancing of the total production and disposition codes is crucial when reporting the C-115 as it affects both the C-115 and the C-115B reporting, which ultimately informs operator baselines and compliance with our rules.

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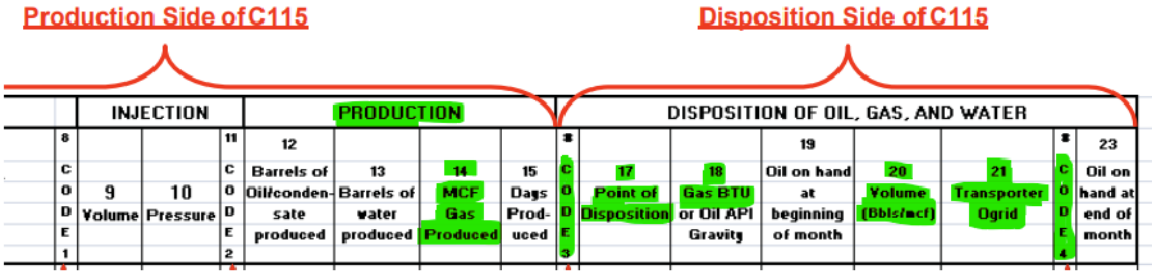
NM-EMNRD-22-0512-B-000778

There are no exceptions, all gas types should be properly reported on both the production and disposition side of the C-115.

Example: Gas reported as vented from pneumatics, maintenance, gas lift and stock tanks needs to be included in both the Production side (Column 14) and the Disposition side of the C-115 (Columns 16, 17, 18, 20 and 22). An example of the proper columns is highlighted below.



Rule Citation

19.15.19.9 GAS FROM GAS WELLS TO BE MEASURED:

A. *The transporter of gas produced shall account for the gas by metering or other division-approved method and report it to the division. The owner or operator of the gas transportation facility shall report gas produced from a gas well and delivered to a gas transportation facility. The well operator shall report gas produced from a gas well and required to be reported by 19.15.19.9 NMAC that is not delivered to and reported by a gas transportation facility.*

C-115 and C-115B Reporting Correlation

Question #2: How should pneumatics and Stock tank vapors be reported on the C-115?

Gas reporting of pneumatic devices and tank vapors on the C-115 is regulated by 19.15.19.9 NMAC. All gas produced from the well is required to be reported. The disposition codes may vary depending on how the gas is being used. Gas from pneumatics should be reported on the disposition code “used on lease” and gas vented from tanks should be reported as “gas vented”.

Question #3: How should Gas lift be reported on the C-115B and C-115?

For reporting on the C-115, all gas produced from the well is required to be reported, both on the production side and the disposition side. Gas from Gas Lift should be properly reported as produced gas from the well and then properly reported on the “Gas Lift” disposition code. If any gas from the gas lift is vented or flared during the process, the gas should be reported on the G disposition code in the C-115. Any gas that is part of the gas lift that is not reinjected should then be accurately reported in the C-115B.

Reporting to Other Agencies

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Question #4: How should an Operator report to the State Land Office (SLO) pursuant to 19.15.27.8.G(4) NMAC?

Operators should work with the SLO to understand the format they would like the information submitted.

Reporting Gas volumes.

Question #5: How should operators round gas volumes on the C-115B that are less than 1 MCF?

We understand that operators may be utilizing standard rounding principles when they report. That approach is fine in the interim; however, OCD is looking at this issue and will provide additional guidance, if necessary.

Question #6: How is the OCD going to handle gas volumes that are amended on the C-115 or C-115B after the baseline percentages are established, specifically if that amendment will change the baseline percentage?

OCD is evaluating potential long-term solutions that will require written verifications prior to changing a baseline percentage. Once finalized, OCD will announce the change and any associated process.

Question #7 If an operator doesn't vent or flare gas do they still need to file a C-115B?

Yes. The reporting obligation applies to any New Mexico operator with qualifying wells or facilities, regardless of if sites vented or flared in the covered reporting period. Operators should report 0 for a well or facility reporting category if there has been no venting or flaring during the reporting time period. However, prior to reporting zeros ensure your operations do not vent or flare, including from sources like stock tanks, maintenance events, pneumatics, etc. See Well and Facility Reporting Rules in the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/.

Question #8 Where is the change of custody point for C-115Bs for Upstream vs Midstream

Custody transfer occurs at the sales meter at which taxes and royalties are paid. Operations upstream of the sales meter are regulated under Part 27; Operations downstream of the sales meter are regulated under Part 28.

Question #9 How do operators report on the C-115B, or where can we access the form?

Please see the appropriate user guide https://www.emnrd.nm.gov/ocd/ocd-e-permitting/

Question #10 What are OCD's guidelines on methods used to estimate volumes?

The OCD rules state Operators "may estimate the volume of vented or flared natural gas using a methodology that can be independently verified". OCD recommends using methods that are accepted in industry and independently verifiable by a third-party

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reviewer. Some methodologies may be standards or formulas from organizations such as API, EPA, or other similar tools.

C-115 and C-115B Reporting Code Crosswalks

Below is a basic description of the C-115 Non-Transported Disposition codes and a crosswalk on how the disposition codes relate between the C-115 and C-115B.

C-115 Non-Transported Disposition Codes.

Code	Code Title	Brief Description
F	Flaring	For gas that is flared
G	Gas Lift	For gas from Gas Lift
L	Lost	Gas unintentionally vented (Typically due to a malfunction or emergency)
R	Repressurizing	When repressurizing a well or system
U	Used on Property	Gas used beneficially onsite
V	Venting	Gas intentionally vented onsite
O	Other	Any item not described above.

Code Crosswalk

C-115B Codes	C-115 Gas Disposition Codes
Beneficial Use	Used on Property
Emergency: 19.15.27.8(G)(2)(a) NMAC	Lost
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Used on Property
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Venting or Flared
Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC	Venting or Flared

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Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC	Venting or Flared- for Maintenance, Lost- for a Malfunction.
Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC	Venting or Flared
Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC	Venting or Flared
Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC	Venting or Flared
Storage Tanks: 19.15.27.8(G)(2)(f) NMAC	Venting or Flared
Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC	Venting or Flared
Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC	Venting or Flared
Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC	Lost
Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC	Venting or Flared

C-115B Visual Equations based on 19.15.27 and 19.15.28 NMAC

Rule Citation
19.15.27.8(G)(3) "Upstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall deduct the volume of natural gas sold, used for beneficial use, vented or flared during an emergency, and vented or flared because it was not suitable for transportation or processing due to N_2, H_2S, or CO_2 concentrations, vented as a result of normal operation of pneumatic controllers and pumps if reported pursuant to Subparagraph (i) of Paragraph (2) of Subsection G of 19.15.27.8 NMAC, or vented or flared from an exploratory well with division approval from the natural gas produced.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection G of 19.15.27.8 NMAC from the total volume of natural gas produced and divide by the total volume of natural gas produced.*

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Equation:

(a) Lost Natural Gas (Volumetric) = OGRID total produced gas volume – gas sold – beneficial use – emergency use – not suitable for transport (excludes O2) – normal operations (pneumatics) – exploratory well volumes

(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115){-}Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ produced\ gas\ volume\ (Imported\ from\ C{-}115)}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Volume Natural Gas Sold	Other Surface Waste: 19.15.27.8(G)(2)(m) NMAC
Beneficial Use	Non-Scheduled Maintenance or Malfunction: 19.15.27.8(G)(2)(b) NMAC
Emergency: 19.15.27.8(G)(2)(a) NMAC	Routine Repair and Maintenance: 19.15.27.8(G)(2)(c) NMAC
Natural Gas Not Suitable for Transportation or Processing (N2, H2S, or CO2): 19.15.27.8(G)(2)(h)(i) NMAC	Routine Downhole Maintenance: 19.15.27.8(G)(2)(d) NMAC
Venting as Result of Normal Operations of Pneumatic Controllers and Pumps: 19.15.27.8(G)(2)(i) NMAC	Manual Liquid Unloading: 19.15.27.8(G)(2)(e) NMAC
Venting And Flaring From an Exploratory Well: 19.15.27.8(G)(2)(l) NMAC	Storage Tanks: 19.15.27.8(G)(2)(f) NMAC
	Insufficient Availability or Capacity: 19.15.27.8(G)(2)(g) NMAC
	Natural Gas Not Suitable for Transportation or Processing (O2): 19.15.27.8(G)(2)(h)(i) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.27.8(G)(2)(j) NMAC
	Venting or Flaring in Excess of Eight Hours: 19.15.27.8(G)(2)(k) NMAC

Rule Citation
19.15.28.8 (F)(3) "Midstream"

(a) *To calculate the lost natural gas on a volumetric basis, the operator shall sum the volume of natural gas reported under Subparagraphs (b), (c), (e), (f), (g), (i) and (j) of Paragraph (2) of Subsection F of 19.15.28.8 NMAC.*

(b) *To calculate the natural gas captured on a percentage basis, the operator shall deduct the volume of lost gas calculated in Subparagraph (a) of Paragraph (3) of Subsection F of 19.15.28.8 NMAC from the total volume of natural gas gathered and divide by the total volume of natural gas gathered.*

Equation:

(a) Lost Natural Gas (Volumetric) = non-scheduled maintenance or malfunction + routine repair and maintenance + gathering pipeline blowdown and purging + gathering pipeline pigging + storage tanks + improperly closed or maintained thief hatches + other surface waste

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(b) Natural Gas Captured (Percentage) =

$$\frac{OGRID\ total\ gathered\ gas\ volume - Lost\ Natural\ Gas\ (Volumetric)}{OGRID\ total\ gathered\ gas\ volume}$$

Table View:

Excluded from Lost Natural Gas Equation	Included in Lost Natural Gas Equation
Emergency: 19.15.28.8(F)(2)(a) NMAC	**Non-Scheduled Maintenance or Malfunction: 19.15.28.8(F)(2)(b) NMAC**
Beneficial Use: 19.15.28.8(F)(2)(d) NMAC	**Routine Repair and Maintenance: 19.15.28.8(F)(2)(c) NMAC**
Venting as Result of Normal Operation of Pneumatic Controllers and Pumps: 19.15.28.8(F)(2)(h) NMAC	**Gathering Pipeline Blowdown and Purging: 19.15.28.8(F)(2)(e) NMAC**
	Gathering Pipeline Pigging: 19.15.28.8(F)(2)(F) NMAC
	Storage Tanks: 19.15.28.8(F)(2)(g) NMAC
	Improperly Closed or Maintained Thief Hatches: 19.15.28.8(F)(2)(i) NMAC
	Other Surface Waste: 19.15.28.8(F)(2)(j) NMAC

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From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Monday, April 05, 2021 7:00 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Thomas Engler (Thomas.engler@nmt.edu) <Thomas.engler@nmt.edu>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; Moander, Christopher <cmoander@nmag.gov>
Subject: FW: Cimarex's Closing Brief: OCC Case 21744, Order R-21575, OCD Case 21629
Attachment(s): "Cimarex's Closing Brief Case No. 21744.pdf"

From: Darin Savage <darin@abadieschill.com>
Sent: Monday, April 5, 2021 4:48 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; Moander, Christopher <cmoander@nmag.gov>; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; brent.mcdonald@prosperitybankusa.com
Subject: [EXT] Cimarex's Closing Brief: OCC Case 21744, Order R-21575, OCD Case 21629

Good afternoon,

Please find attached for filing Cimarex Energy Co.'s Closing Brief in support of the Commission's granting Cimarex a de novo hearing.

Thank you,

Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

*P | **970.385.4401** :: F | **970.385.4901** :: C | **970.764.8191***

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Order No. R-21575

CIMAREX ENERGY CO.'S CLOSING BRIEF

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), submit their Closing Brief to the Oil Conservation Commission ("Commission") providing the legal and regulatory basis establishing that Cimarex has standing to seek a *de novo* hearing in this proceeding. In support of its position, Cimarex states the following:

A. Introduction

Cimarex recognizes that its request to be defined as a "party of record adversely affected" pursuant to NMSA 1978 §70-2-13 is a question of first impression under the particular facts and circumstances of this case. Cimarex also acknowledges that the Commission must craft a decision that provides the proper relief to Cimarex without establishing a precedent that other parties could abuse, that would cause inefficiencies in the Commission's regulatory process, or that would adversely affect the need for applicants to obtain finality of decisions issued by the Oil Conservation Division ("Division"). As explained herein, Cimarex respectfully submits that the Commission can craft a narrowly-tailored decision that will both protect the Commission's interests while setting a precedent that will be a desirable and necessary option for the Commission to implement under proper circumstances.

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B. Procedural Background

The present case arises from a unique set of facts and circumstances; it is distinguishable from situations of general oversight or neglect that do not satisfy the criteria to qualify as a "party of record adversely affected" by a decision of the Division.

The touchstone for obtaining a compulsory pooling order pursuant to the New Mexico Oil and Gas Act ("Act") is the statutory obligation to seek a voluntary agreement with working interests owners as required by NMSA 1978 §70-2-17(C) and related regulations.[1] At a minimum, an applicant is required to provide "evidence of *attempts* the applicant made to gain voluntary agreement including but not limited to copies of relevant correspondence." NMAC 19.15.4.12A(b)(vi) (Emphasis added). The obligation to engage in good-faith "negotiations" during the time prior to filing an application for a compulsory pooling order, and leading up to the hearing is illustrated by recent decisions of both the Division and the Commission in Order Nos. R-20223 and R-21416-A, respectively.

Colgate Operating, LLC ("Colgate") did not have standing to apply for, let alone receive, a pooling order because it ignored its statutory and regulatory obligations – it never made an attempt to enter a voluntary agreement, let alone engage in good-faith negotiations to reach such an agreement. To make matters worse, Colgate made material misrepresentations to the Division falsely claiming that it had met these obligations. Colgate does not dispute that it failed to satisfy its obligation, nor does it provide evidence to the contrary, but states only that its failure "should have been litigated in a contested hearing before the Division." *See* Colgate's Reply to Cimarex's Response to Colgate's Motion to Dismiss Cimarex's Application for a *De Novo* Hearing ("Colgate's Reply"), p. 1. Thus, Colgate wrongfully obtained its pooling order

[1] NMSA 1978 Sec. 70-2-17(C) states that a force pooling is allowed when "owners have not agreed to pool their interests." Online Meriam Webster dictionary defines agree as "to concur" or "to consent." Therefore, the proper interpretation of the statute is that parties must have attempted but failed to reach an agreement prior to a forced pooling, a requirement of the statute codified in NMAC 19.15.12A(b)(vi).

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through false claims and misrepresentations and thereby undermined both the legitimacy of the proceedings and the validity of the order itself.

Moreover, Colgate failed to submit a complete application to the Division. The C-102 form for Colgate's Meridian well was not submitted to the Division for review, as required by the rules and the Division's pooling checklist. Colgate did not satisfy this requirement until January 27, 2021, after Cimarex made an appearance.

The Division held a hearing in this case on January 7, 2021. Cimarex, the second largest owner in the unit, made its entry of appearance in the case on January 19, 2021, before Colgate completed its application on January 27, 2021, with the filing of its C-102. The Division issued its Order on Colgate's application on January 19, 2021, before Colgate had completed its application.

The issue before the Commission is whether it has the authority under existing law and rules, given the circumstances and facts specific to this case, to grant Cimarex a *de novo* hearing pursuant to §70-2-13. Cimarex respectfully submits that the Commission does have such authority and that there is good cause and justification to exercise it in a judicious and measured manner in order to not only uphold the integrity of the pooling proceeding, but also to rectify the adverse effects of Colgate's misfeasance on Cimarex. The Commission can craft an order that addresses these important issues when they arise under the specific, narrow circumstances as presented in this case. Such a narrowly-tailored approach would not open a floodgate of *de novo* appeals and therefore would not burden either the Commission or future applicants who adhere to the proper procedures for seeking a pooling order.

C. Legal Arguments:

I. The language of the Act and related regulations provides the Commission with the authority to grant Cimarex a *de novo* hearing.

In *Nmma v. N.M. Water Quality Control Comm.,* 2007 NMCA 10, 141 N.M. 41, the court enunciated the baseline rules of statutory construction: "When construing a statute, we begin with the plain language, and we assume that the ordinary meaning of the words expresses the legislative

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purpose." *Nmma*, at ¶ 12 (citations omitted). "Our main goal is to give effect of the legislature's intent." *Id.* (citation omitted). "We also consider the history and background of the statute, as we harmonize the language in a manner that facilitates the operation of the statute and the achievement of its goals." *Id.* (citation omitted). "Agency rules are construed in the same manner as statutes," that is, by the plain language of the rules themselves. *See Nmma,* at ¶ 12 (citation omitted).

Section 70-2-13 is the sole statute that governs the requirements for a *de novo* hearing. This statute broadly provides, in pertinent part, that "*any party* of record adversely affected shall have the right to have the matter heard *de novo* before the commission" upon the filing of a timely application. (Emphasis added). However, the term "party of record" is neither defined nor addressed in §70-2-13, or elsewhere in the Act or regulations.

Because neither the Act nor the regulations provide a definition of the term "party of record," its meaning for purposes of seeking a *de novo* hearing before the Commission under §70-2-13 can be discerned by examining both the text of the statute and the Commission's regulations. First, §70-2-13 does not require a "party of record" to have been present at the hearing when testimony is taken; the statute specifically separates "transcript of testimony" and "record." Second, NMAC 19.15.4.10A(2) provides that "[a] person to whom statute, rule, or order requires notice…*who has entered an appearance in the case;*…." qualifies as a party to "an adjudicative proceeding." (Emphasis added). Finally, NMAC 19.15.4.10B allows a person who is entitled to notice to "enter an appearance at *any time*." (Emphasis added). Thus, in order to be a "party of record" that is authorized to file an application for a *de novo* hearing under §70-2-13, that party only has to qualify as a party who has the right to file an entry of appearance and did, in fact, enter an appearance in the case. There is no requirement that the party had to have presented evidence at the hearing or to have made any type of argument at the hearing in favor or opposed to the application or to even have attended the hearing.

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In the present case, Cimarex had the unquestionable right to file an entry of appearance. While it filed that appearance after the hearing was held, the entry of appearance was submitted prior to the record in the proceeding being complete. The plain language of §70-2-13 requires that before the Division can render a decision in the matter, the Division "shall cause a complete record of the proceeding to be made" which must include the "*receiving* of…exhibits offered in evidence." (Emphasis added). Cimarex made its entry of appearance prior to the completion of the record because at the time of Cimarex's entry of appearance, January 19, 2021, Colgate had not yet submitted all the documents and exhibits required by the Division for completion and closure of the case. Colgate did not satisfy this requirement until January 27, 2021, well after Cimarex made its entry of appearance. This fact alone qualifies Cimarex as a party of record under §70-2-13.

In *New Energy Economy, Inc. v. Vanzi,* 2012-NMSC-5, 274 P.3d 53, on which the Commission relied in Order No. R-14097-A, the court determined that what constitutes a "party," or in this case "party of record," in an administrative hearing is not set by statute when the statute does not specify a meaning and that the agency may determine the scope of what constitutes a party without input from the New Mexico Supreme Court or the Legislature. *See New Energy,* at ¶ 35. Thus, the Commission is authorized to "broaden or constrain the term 'party.' " *Id*. Accordingly, since "party of record" is not defined in §70-2-13, the Commission has full discretion to decide what is fair and just in this case with respect to whether Cimarex should be designated as a party of record when the request falls within the purview of the statutory and regulatory language.

This interpretation of §70-2-13 is fully supported by the Commission's analysis in Order No. R-14097-A in which the Commission recognized that not only is the term "party of record" not defined anywhere in the statute, it is not defined anywhere in the Act. *See* Order No. R-14097-A at ¶ 10. By exercising its discretion to grant Cimarex a *de novo* hearing, the Commission will ensure that applicants do not take the Division or its statutory requirements for granted and will

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provide the necessary incentive for applicants to be conscientious and diligent throughout the pooling process, including the fundamental requirement of attempting to seek a voluntary pooling agreement before seeking the Commission's intervention.

II. Granting Cimarex a *de novo* hearing will not open the floodgates to excessive *de novo* hearings and will not burden the Commission.

The scope of what constitutes a party of record adversely affected that could qualify for a *de novo* hearing is clear under the regulations and Act. On the one end of the spectrum, filing an entry of appearance prior to the actual hearing secures a party's right to a *de novo* hearing. This incentive will remain in place if the Commission grants Cimarex the relief it is seeking. On the other end of the spectrum, it is clear under the Commission's decision in Order No. R-14097-A, discussed below, when a party fails to qualify for a *de novo* hearing. The Commission can quickly determine the lack of standing on the face of any such request. Within this spectrum, Cimarex respectfully requests that the Commission provide, in conformity with the Act, an additional, but limited and narrowly tailored, option for a party to qualify as a party of record adversely affected when substantial justice and fairness is at stake and when, absent this option, the legitimacy of the proceedings is undermined.

Order No. R-14097-A provides a blueprint for the Commission to make an efficient determination whether a party is a party of record. Under this Order, a party who seeks a *de novo* hearing when making an entry of appearance after the actual hearing must demonstrate its participation in the case "in a legally significant manner." *See* Order No. R-14097-A at ¶ 13. This requirement is satisfied when a party (1) makes an entry of appearance that satisfies NMAC 19.15.4.10(A) and (B) and that demonstrates the party's diligence; (2) submits evidence and arguments in writing that demonstrate the validity of a party's claims of wrongdoing for which the applicant is not able to provide sufficient evidence to the contrary;[2] (3) provides valid reasons for

[2] This factor (2) would facilitate the efficient determination whether a party is a party of record adversely affected. If after the moving party submitted evidence that wrongs were committed and the applicant countered with sufficient

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not making an entry of appearance prior to the hearing; and (4) demonstrates, as part of its application for a *de novo* hearing, that there is a justification for the record to be reopened on the basis of new evidence. *See* Order No. R-14097-A at ¶ 15. As shown in its pleadings, Cimarex has satisfied all the threshold criteria described in Order No. R-14097-A to demonstrate that it participated in the case in a legally significant manner and therefore should be granted a *de novo* hearing.

With respect to factor (4), which Cimarex submits is dispositive in the present case, there was no need to reopen the record in order to accept Cimarex's entry of appearance because it was filed before the record was completed. The completion of the record prior to a pooling order being issued is a requirement of §70-2-13. Colgate did not complete the record until January 27, 2021, and did so in direct response to Cimarex making an entry of appearance prior to its completion. Other factors, such as elements of excusable neglect described in Cimarex's Response to Colgate's Motion to Dismiss, may be considered to the extent they inform the criteria for a *de novo* hearing under the Act.

During oral arguments, a question was raised whether, under NMAC 19.15.4.10(C), a party who has not entered an appearance prior to the pre-hearing statement filing date should be able to present technical evidence at the hearing. Cimarex respectfully submits that the new evidence contemplated in factors (2) and (4) above would be presented not at the original hearing but should be considered by the Commission as one of the threshold criteria for granting a *de novo* hearing. This consideration is consistent with the language of NMAC 19.15.4.10(C) which also provides that the Commissioner Chair can direct the submission of evidence "for good cause."

By implementing the four factors derived from Order No. R-14097-A as strict criteria for the appeal, the Commission will be able to receive the benefits of the option for granting a *de novo*

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evidence to demonstrate otherwise, the Commission could quickly dismiss the moving party's application without the burden of further consideration.

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hearing under the circumstances described herein without imposing additional burdens on the Commission or prejudicing parties who have submitted pooling applications that meet all of the statutory and regulatory requirements.

III. A carefully considered option for granting a *de novo* hearing upholds the integrity of the pooling process and promotes the goals of the Act.

Final considerations in the overall equation for granting a party's request for a *de novo* hearing should include relevant and important questions of (1) substantial justice and fundamental fairness; (2) weighing the potential harm and prejudice to both the moving and non-moving parties; and (3) fulfilling the intent and mission of the Act and related regulations, all three of which have been addressed by New Mexico case law. The *New Energy* court allowed three parties, who otherwise would have been excluded from an appeal, to participate based on the parties' stake in the appeal: "As a matter of common sense and fundamental fairness, one would expect our appellate procedures to provide for their participation as parties to their appeals on equal footing with their opponents." *Id.* at ¶ 27; *see also Thriftway Mktg. Corp. v. State*, 1990-NMCA-115, 111 N.M. 763 (creating an exception for a party to intervene for the first time on appeal, when the party had not been involved in the district court proceeding); *Wilson v. Massachusetts Mut. Life Ins. Co.,* 2004-NMCA-051, ¶ 11, 135 N.M. 506 (holding that while the timely filing of a notice of appeal may be a mandatory precondition to jurisdiction, it is "not an absolute jurisdictional requirement," and the court will recognize certain narrow exceptions to untimely filing when warranted by the circumstances).

With 25% working interest, Cimarex is the second largest owner in the unit, the first being Colgate with a 27% working interest. Thus, Cimarex has a considerable stake, on par with Colgate, in the outcome of the case and had every intention of participating in the hearing but for the extenuating circumstances, as explained by Cimarex, for missing its opportunity. Given the requirements under the Act and related regulations for an applicant to seek in good-faith a voluntary agreement and engage in negotiations, if Colgate had adhered to its statutory and

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regulatory obligations, Cimarex would have been fully aware of Colgate's efforts to pool and develop the unit prior to the hearing, notwithstanding the missed notice letter. In fact, given the framework of the Act taken as a whole, if the applicant performs its statutory duties and obligations, there is no reason for an owner of substantial interest not to be aware of a pooling effort prior to the hearing. Cimarex's request provides the necessary incentive for ensuring such duties and obligations are met.

Interested parties have a fundamental right to receive notice of forced pooling proceedings. However, a prerequisite to providing such notice is affording interested parties with their right to good-faith negotiations of a voluntary pooling agreement. Colgate clearly failed to afford Cimarex its right to good-faith negotiations. The purpose of the Act and regulations is to ensure that owners have the opportunity to fully negotiate and work out their concerns prior to the state imposing its police powers to force private parties to yield their ownership to the applicant in a forced pooling order. If the applicant violates the purpose and provisions of the Act, then the applicant's privilege to use state power is not legitimate.

Finally, by not having an option narrowly tailored to address these circumstances as they arise, the Commission risks not being able to fulfill its mission under the Act to prevent waste and protect correlative rights to the full extent available under the law. An owner who has a right to drill but misses, for a valid reason, a hearing may have been able to offer a superior development plan that would have prevented waste and protected correlative rights better than the applicant's plan. If the Commission has the authority under such circumstances to consider the merits of the alternative plan, as it does in this case, it should do so in order to uphold the purpose of the Act.

D. Conclusion:

Cimarex has standing to request a *de novo* hearing because it filed its entry of appearance before Colgate's application was complete and the record was closed. Even absent this dispositive fact, Colgate failed to meet its statutory and regulatory obligation to engage in good-faith

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negotiations with Cimarex to enter into a voluntary pooling agreement, thus undercutting the entire rationale for seeking Commission intervention to issue a pooling order.

Cimarex respectfully submits that under the unique facts of this case, to the extent that it needs to rely on its discretion, *see, i.e.,* NMSA 1978 70-2-6(B), the Commission should grant Cimarex's request for a *de novo* hearing. Granting Cimarex's request will maintain the integrity of pooling proceedings, without creating an undue burden on the Commission or prejudicing applicants who follow the rules. Finally, granting Cimarex's application will ensure that the development plan it ultimately approves for the subject lands is the best plan to prevent waste and protect correlative rights, thus satisfying the Commission's obligation to the public. For the foregoing reasons, Cimarex respectfully requests that the Commission grant Cimarex a *de novo* hearing and deny Colgate's Motion to Dismiss the Application in Case No. 21744.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

_____

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NM-EMNRD-22-0512-B-000795

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on April 5, 2021:

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From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Wednesday, June 02, 2021 3:24 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; twarnell@att.net <twarnell@att.net>; Moander, Christopher <cmoander@nmag.gov>
Subject: FW: Cimarex's Motion in OCC Case No. 21744
Attachment(s): "Cimarex's Motion re Procedure Case 21744 060221.pdf"

From: Darin Savage <darin@abadieschill.com>
Sent: Wednesday, June 2, 2021 12:56 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; Moander, Christopher <cmoander@nmag.gov>
Subject: [EXT] Cimarex's Motion in OCC Case No. 21744

Good afternoon,

Please find attached below for filing the Motion from Cimarex Energy Co. regarding procedural matters in OCC Case No. 21744.

Thank you,

Darin

DARIN SAVAGE

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Division Order No. R-21575
Commission Order Nos. R-21679, R-21679-A & R-21679-B

CIMAREX ENERGY CO.'S MOTION TO INVALIDATE AND VACATE COLGATE OPERATING, LLC'S ORDER NO. R-21575

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), submit to the Oil Conservation Commission ("Commission") its Motion to Invalidate and Vacate Colgate Operating, LLC's ("Colgate") Order No. R-21575 ("Motion") pursuant to New Mexico statutory and case law, in particular, *Property Tax Department v. Molycorp, Inc.,* 1976-NMSC-72, 89 N.M. 603; and NMSA 1978 §§70-2-13 and 39-3-1.1.

In support of its Motion, Cimarex states the following:

I. Essential facts and procedural background relevant to this motion.

1. On March 25, 2021, the Parties made oral arguments before the Commission on both Cimarex's Application *De Novo* and Colgate's Motion to Dismiss. Given the complexity of the legal interpretations involved, the Commission requested supplemental briefs from the Parties.

2. On April 15, 2021, the Parties continued oral arguments at the Commission. The Commission ruled in favor of Cimarex, addressing defects in the application process and

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granting Cimarex a hearing *de novo* before the Commission. Colgate indicated it would consider an appeal of the decision in district court.

3. The Parties reconvened before the Commission on May 13, 2021, for a Status Conference, setting dates for pleadings and the subsequent filing of Cimarex's competing applications, that would have been included in the hearing before the Oil Conservation Division ("Division") absent Colgate's mishandling of its statutory obligations preceding the hearing. At the Status Conference, questions were raised by both Parties regarding the proper procedure and forum for hearing Cimarex's competing applications. Colgate argued that it was improper to remove Cimarex's application back to the Division, as this would constitute a collateral attack on a standing Division order. Cimarex agreed with Colgate's assessment, that removing the application back to the Division-level without first invalidating or vacating Order No. R-21575 on proper grounds would constitute a collateral attack on the order subject to appeal in district court.

4. At the Status Conference, counsel for Cimarex expressed that it is in the best interest of both Parties to have the Commission evaluate and determine the proper procedural posture for hearing Cimarex's applications to ensure that any final order issued would be secure, to the extent possible, from appeal.

5. To date, a question of collateral attack of a standing order, if a case challenging such order is removed to the Division for hearing pursuant to the proceedings of a *de novo* hearing under §70-2-13, has not been addressed by the courts, and thus, it would be a question of first impression upon appeal.

II. The Commission, to secure an order to the extent possible under the facts of these proceedings, should be fully satisfied with its position on the question of collateral attack of a standing order both within the context of New Mexico case law and industry standards.

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6. It is clear that the Division and Commission have broad authority under NMSA 1978 §§ 70-2-6 and 70-2-11 to address issues of conservation of oil and gas and to do whatever may be reasonably necessary to carry out the purpose of the New Mexico Oil and Gas Act ("Act"), such broad authority being important to the mission of the two agencies, but it is equally clear that the Division and Commission are agencies bound by statute. *See* Continental Oil Co. v. Oil Conservation Commission, 1962-NMSC-062, ¶ 11, 70 N.M. 310 (stating: "The [OCC] is a creature of statute, expressly defined, limited and empowered by the laws creating it."). This limitation is codified in §70-2-6 of the Act, which shows that the concurrent jurisdiction the Commission has with the Division is not absolute, but is permitted "to the extent necessary for the [C]ommission to perform its duties as required by law."

7. New Mexico case law has demonstrated instances in which the Commission's broad authority has been curtailed for the proper operation of specific, limiting statutes in relation to broader statutes of the Act such as §§70-2-6 and 70-2-11. *See Marbob v. Oil Conservation Com'n,* 2009-NMSC-013, ¶ 13, 146 M.M. 24. In *Marbob,* the court held that the Commission cannot ignore the plain language of a specific statute. *See id.* at ¶ 14. Doing so creates a contradiction in the Act, *see id.,* and "[a]s a general rule of statutory construction,…general language is limited by specific language." *Id.* at ¶ 15 (*citing Lubbock Steel & Supply, Inc., v. Gomez,* 1987-NMSC-025, ¶ 6, 105 N.M. 516).

8. In the present case, the concern would be whether the specific statute, §70-2-13, allows the Commission to re-litigate at the Division-level a standing order issued by the Division. The hermeneutics of statutory construction rely heavily on the precision of the statutory language, and counsel for Colgate asserted in discussions before the Commission on May 13, 2021, that a *de novo* hearing should not go backward to the Division-level, which would

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result in a collateral attack on the standing order, but must go forward with the *de novo* hearing at the appellate-level of the Commission. Although Cimarex would benefit, in the short term, from a return to the Division to hear its competing application, a successful challenge of such procedure in district court would not benefit Cimarex in the long term, and therefore, counsel for Cimarex would tend to agree with Colgate's assessment, that as long as Colgate's final pooling order remains in place, a return to the Division would constitute a re-litigation of the matter and an improper collateral attack under the Act and case law.

III. Under the facts of this case, the cleanest and safest way to avoid challenge or appeal is to invalidate and vacate Order No. R-21575.

9. In the present case, there is opportunity, consistent with case law and statutory language, to avoid the issues of re-litigation and collateral attack. Under *Molycorp, Inc.,* 1976-NMSC-072, ¶ 11, *res judicata* applies "to rulings of administrative bodies under the proper circumstances," a holding which would likely be applicable to the Division as an administrative body. Cimarex is concerned that this precedent may have traction in district court.

10. However, the *Molycorp* court noted that an agency has the inherent power to cancel and revoke an order that is found to be "issued in conflict with the statutes governing and limiting the issuance thereof." *Id.* In Order No. R-21679, the Commission properly focused on Cimarex's allegations of Colgate's material misrepresentations, concluding that they were "not only compelling but concerning given that misrepresentations in pleadings undermine both the administrative and judicial legal systems, specifically as to the integrity of any particular case." Order No. R-21679 at § II.i.

11. Based on such misrepresentations, it is clear that Order No. R-21575 was issued in conflict with the statutes governing and limiting the issuance thereof, specifically §70-2-17(C), which became apparent after Cimarex "supplied evidence previously unseen by the

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Division." *See* Order No. R-21679 at §II.j. Thus, there are proper grounds to invalidate and vacate Order No. R-21575, not because the Division improperly issued the order at the time, but because, in retrospect, given the new evidence, the order should be invalidated and vacated; otherwise, at this point in the proceedings, the order could be viewed as unauthorized and ultra vires. *See Molycorp*, 1976-NMSC-072, ¶ 12 (holding that the agency in issuing its order in violation of its rules "was unauthorized and ultra vires"). Thus, the invalidation of Order No. R-21575 would allow the Division to properly hear Cimarex's completing applications to determine whether its plan would better prevent waste and protect correlative rights, thereby avoiding a challenge of collateral attack in district court.

12. Cimarex realizes that the Division and Commission have recently given consideration to whether *res judicata* is applicable to the re-litigation of a matter previously litigated by the Division and final order issued. *See, i.e.,* Division Order No. R-21675 at ¶ ¶ 2-3 (ruling that *res judicata* does not bar the Division's consideration of Apache's application in Case Nos. 21489, 21490 and 21491 or Mewbourne's applications in Case Nos. 21362 and 21364). Cimarex respectfully submits that further consideration of this issue would be beneficial to obtain the perspective of a party, Cimarex, who faces the prospect of a challenge in district court to any order it might receive from the Commission under the facts of the present case. Cimarex reasonably desires to avoid, to the extent possible, any challenge alluded to by Colgate. Since this issue would be a question of first impression in district court, Cimarex remains uncertain of the final outcome.

13. The courts will generally defer to the agency's interpretation in resolving ambiguities in the statutes or regulations which an agency is charged with administering, if it implicates the agency's technical expertise. *See Sierra Club v. New Mexico Mining Com'n* 2003-

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NMSC-5, ¶ 17, 133 N.M. 97. However, if the question involves only a matter of law, the appellate court "will not defer to the Commission's or the district court's statutory interpretation," as a matter of law is reviewed *de novo*. *See id.;see also* NMSA 1978 §39-3-1.1(D)(3) (proper basis of appeal is that the agency did not act in accordance with the law).

14. The strongest argument for not applying *res judicata*, and not having concern that a re-litigation of a standing order at the Division-level is a collateral attack, is the view that a Division order is not final because a *de novo* hearing at the Commission-level is still available. Recent arguments before the Division for the inapplicability of *res judicata* have relied on *Ruyle v. Continental Oil Company,* 44 F.3d 837 (10th Cir. 1994), a case which made a passing reference to the potential effect of a subsequent *de novo* hearing, but which ultimately ruled that the agency's order does provide preclusive effect pursuant to collateral estoppel and *res judicata. See id.* at 846. The *Ruyle* court raised the possibility that a pending *de novo* hearing might negate the finality of an agency order by referencing Wright & Cooper, Federal Practice & Procedure, §4433, at 308 (1981) followed by the court's reference to Restatement (Second) of Judgements §83 cmt. at (1980). *See id*. However, the statement in Wright's Federal Practice & Procedure provides: "The Supreme Court long ago seemed to establish the rule that a final judgment retains all of its *res judicata* consequences pending decision of the appeal, apart from the *virtually nonexistent* situation in which the 'appeal' actually involves a full trial *de novo*." Federal Practice & Procedure (Wright & Miller) §4433 (3rd ed.) (emphasis added). Thus, such reference does not apply to the type of *de novo* hearing contemplated at the Commission-level.

15. In order for *res judicata* to be inapplicable, and a collateral attack avoided, the *Ruyle* court's references regarding the potential effect of a *de novo* hearing must apply to the Division's order in New Mexico; in effect, they must negate the finality of the order. However,

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under current New Mexico law, this is not the case. In *Alarcon v. Albuquerque Pub. Sch. Bd. of Educ.*, 2018-NMCA-021, ¶ 32, 413 P.3d 507, Albuquerque Public Schools attempted to argue that a teacher could not apply for a writ of mandamus, which requires a final order by an administrative body, because under the statute, the teacher "could appeal an adverse decision from a discharge hearing conducted by the superintendent to an independent arbitrator who hears the case *de novo*…." *Id.* The *Alarcon* court rejected this argument, illustrating that the *de novo* hearing does not supplant the initial hearing for purposes of finality, nor does the opportunity to have a subsequent or pending hearing *de novo* preclude the establishment of finality of the initial order. *See id.* at ¶¶ 32-33

16. The Commission's *de novo* hearing was not envisioned by the original drafters to be a *tabula rasa* proceeding completely divorced from the findings at the Division's hearing. *See* Commission Case No. 903 at p. 24 (showing that for reasons of constitutionality and due process, the form of *de novo* hearing favored by the drafters was one in which "the record [from the Division] will be considered and you can introduce additional evidence"). This reflects New Mexico case law which consistently shows, as does case law from other oil producing states, that when an administrative body, such as the Division, makes a decision after opportunity for a full and fair adjudication, the decision is final and *res judicata* applies. [1]

[1] *See Property Tax Dept. v. Molycorp,* Inc., 1976-NMSC-72, 89 N.M. 603 (holding *res judicata* does apply to rulings of administrative bodies); *Amoco Production Co. v. Heimann,* 904 F.2d 1405, 1419 (10th Cir. 1990) (holding that where a state agency in a judicial capacity, resolves facts before it during which the parties had opportunity to litigate, the agency's decision has the same preclusive effect to which it would be entitled in state's courts); *Ruyle v. Continental Oil Co.,* 44 F.3d 837, 846 (10th Cir. 1994)(agency order provides preclusive effect pursuant to collateral estoppel and *res judicata*); *City of Socorro v. Cook,* 1918-NMSC-072, 24 N.M. 202 (showing that courts have uniformly held decisions of administrative adjudications, when rendered by an officer or a board, have the preclusive force and effect of a judgement); *Hystad v. Mid-Con Exploration Co. Exeter,* 489 N.W.2d 571, 574-576 (N.D. 1992)(holding that when the Industrial Commission of ND issues a spacing order, after a full and fair agency hearing, it has preclusive effect, and a challenge of such order constitutes a collateral attack); *Trahan v. Superior Oil Company,* 700 F2d 1004, 1024-25 (5th Cir. 1983)(holding that a challenge to the agency's order, absent fraud, or other comparable exception, constitutes an impermissible attack on the order); *Leck v. Continental Oil Co.,* 971 F.2d 604 (10th Cir. 1992)(holding that Appellants are collaterally estopped from attacking the Oklahoma Corp. Commission's order because the order found no basis for Appellants' claim of drainage).

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17. Thus, the only way to secure with any modicum of certainty that a competing application returned to the Division-level for hearing would not constitute a collateral attack of a standing order is to invalidate and vacate the order prior to the Division hearing, and in the present case, there are sufficient grounds for invalidating Colgate's pooling order.

IV. An order, if left standing and not invalidated, can be properly reconsidered at the Commission-level concomitant with hearing a competing application under §70-2-13.

18. Should the Commission decide to leave Colgate's order standing, then Cimarex respectfully submits that the proper procedure would be to move forward with Cimarex's competing application at the Commission-level as part of the *de novo* proceedings, a procedural posture that is endorsed by counsel for both Cimarex and Colgate. Since the Commission's decision was made in part to restore Cimarex to its unharmed status that existed prior to the Division's original hearing, and since its competing development plan would have been heard at the original hearing had Colgate fulfilled its statutory obligations, it would be reasonable for Cimarex's plan to be reviewed as a "matter" of the original hearing, pursuant to §70-2-13. Thus, Cimarex, adversely affected, has a "right to have the *matter* heard *de novo* before the [C]ommission." *See* NMSA 1978 §70-2-13 (emphasis added).

19. Cimarex would prefer to have its application heard at the Division-level to receive the benefit of the Division's technical expertise, but Cimarex is fully satisfied with the level of technical expertise and background currently embodied at the Commission for making determinations of waste, protection of correlative rights, and optimal production. If a pooling order is left standing as valid, then the remaining forum for review of a party's application, one that was not presented at the original hearing, should be the hearing *de novo* at the Commission. This may be one of the inherent consequences of a party missing its opportunity to present its

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development plan at the original hearing, that since returning to the Division would constitute a collateral attack, the proper procedure is to move forward, allowing the party to receive its remaining opportunity to demonstrate that its development plan is preferrable.

V. Observance and application of *res judicata* and collateral estoppel to prevent an improper collateral attack on a standing order establishes policies of efficiency, due process, and fundamental fairness in the proceedings.

20. When a party decides to present its development plan to the Division, the underlying assumption should be that the party has made a good-faith effort to devise a plan for optimal development of the unit lest it waste the Division's time and resources reviewing a substandard plan. A lack of accountability in this regard places a substantial burden on all operators and applicants, large and small alike. A company that invests significant resources and risk in the development of its plan, both for the benefit of the company and the state of New Mexico, deserves a level of security and confidence that it can rely on the Division's final order without threat of collateral attack. *Res judicata* and collateral estoppel are the principles of proper civil procedure that provide this security. If a party has any objections to an order as issued, the appellate process under §70-2-13 provides a fair and proper procedure for addressing such objections, by moving forward with a *de novo* hearing, and not subjecting the applicant to the burden of re-litigating the matter at the Division.

21. Being subject to re-litigation is especially burdensome on smaller operators, placing a strain on limited financial resources to defend against such collateral attacks. Without protective measures such as *res judicata*, an operator could face two, three, perhaps more challenges at the Division-level before an order is finally secure.[2] Smaller operators, who

[2] Theoretically, without the protections provided by *res judicata* and collateral estoppel, an operator could face multiple collateral attacks at the Division-level, a loophole inviting gamesmanship and abuse of process that the Commission should consider closing.

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historically have played a vital role in developing the natural resources of New Mexico during market downturns, as a result of their greater agility, should be free of such hardships through proceedings that are fair, predictable and reliable.

22. It is true that the practical considerations of high costs, time constraints, and other burdens involved with appealing a decision to district court provide a general deterrence against most appeals. However, such deterrence should not be relied on as a substitute for clean and secure proceedings under the Act and case law, when a safer, more secure and procedurally proper option for avoiding appeals is available, based on the law, through a valid interpretation of the statutes in harmony with current legal precedent.

VI. Conclusion:

For the foregoing reasons, Cimarex respectfully requests that the Commission invalidate and vacate Division Order No. 21575, on the grounds that, since new evidence shows Colgate failed to meet its statutory obligation under §70-2-17(C), the order issued by the Division, should be viewed, retrospectively, as an invalid order. This request would avoid a claim of collateral attack of a standing order and allow the Division to hear Cimarex's development plan with a significantly reduced risk of challenge in district court.

In the alternative, should the Commission maintain the validity of Colgate's pooling order, Cimarex respectfully requests that the Commission exercise its authority under §§ 70-2-13, 70-2-6, and 70-2-11, to include Cimarex's competing applications as a "matter" to be reviewed during the Commission's hearing *de novo* to ensure, to the extent necessary under the law, the prevention of waste and protection of correlative rights.

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Respectfully Submitted,

ABADIE & SCHILL, PC

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on June 2, 2021:

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AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Monday, April 12, 2021 9:50 AM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Thomas Engler (Thomas.engler@nmt.edu) <Thomas.engler@nmt.edu>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; Moander, Christopher <cmoander@nmag.gov>
Subject: FW: Cimarex's Replay to Response to Motion to Stay Order No. R-21575
Attachment(s): "Cimarex's Reply Stay Order Final.pdf"

From: Bill Zimsky <bill@abadieschill.com>
Sent: Friday, April 9, 2021 3:58 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Darin Savage <darin@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>
Subject: [EXT] Cimarex's Replay to Response to Motion to Stay Order No. R-21575

Good afternoon,

Please find attached for filing of record, and for consideration, Cimarex's Reply to Response to Motion to Stay Division Order No. R-21575.

Thank you,

Bill Zimsky

WILLIAM E. ZIMSKY

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Order No. R-21575

REPLY TO RESPONSE TO MOTION TO STAY DIVISION ORDER NO. R-21575

Cimarex Energy Co. and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), submit their Reply to the Response to Motion to Stay Division Order No. R-21575 filed by Colgate Operating, LLC ("Colgate").

A. Introduction

1. Colgate attempts to obfuscate its malfeasance in seeking Division approval of its proposed development plan with colorful but inaccurate descriptions of Cimarex's participation in this pooling process. Colgate accuses Cimarex of "ineptitude," claims that it lacked diligence, that one of its arguments is "absurd," and that Cimarex "was asleep at the wheel." *See* Response at p. 1, 2 and 3. In concluding its Introduction, Colgate unironically asserts that "[i]f Cimarex had done things right . . . then it might have standing to ask for a stay . ." *Id*. at p. 2.

2. However, if Colgate had "done things right,", *i.e*., fulfilled its statutory and regulatory obligation to seek a voluntary pooling agreement with Cimarex before filing its pooling application that sought the Division's intervention to force pool Cimarex's working interest, and significantly, if Colgate had submitted a complete application, including the missing

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Form C-102, prior to hearing, then Colgate's attempt to claim the mantle of protector of the application process might resonate, but it does not. Colgate was "asleep at the wheel" for 20 days after it assured the Division at the January 7 hearing that it would complete the record with its submission of final exhibits the very next day, January 8. But, it failed to do this until Cimarex woke Colgate from its slumber, and even then, Colgate still did not fulfill this statutory requirement until January 27. Colgate should not be rewarded for its lack of regard in the fulfillment of its statutory obligations. Under NMSA 1978 Section 70-2-13, the Division is required have in place a complete record before it can issue a valid decision, otherwise the decision, and ensuing order, are invalid.

3. While Colgate's failure to submit a complete application falls well within the realm of "ineptitude," "lack of diligence," and being "asleep at the wheel" that it ascribes to Cimarex, its misrepresentation to the Division that it fulfilled its fundamental statutory duty to reach a voluntary pooling agreement with Cimarex is a much more critical concern since it eviscerates the purpose of evoking the assistance of the Division to enter a pooling order under NMSA 1978 §70-2-17(C). Thus, it is "absurd" for Colgate to castigate Cimarex when its actions, including its misrepresentations to its own counsel, precipitated the chain of events, including the gross negative consequences, that justify staying the Division's Order that granted Colgate its fundamentally deficient application.

B. Colgate has failed to demonstrate a real world effect granting a stay will have on the *status quo*

4. Colgate's reliance on *Legacy Church, Inc. v. Kunkel*, 455 F. Supp. 3d 1100, 1145 (D.N.M. 2020) is misplaced. *See* Response at pp. 3-4. As a threshold matter, while the Response makes the vague assertion that "Colgate is very much ahead with its drilling program," it provides no details in support of this claim. *Id*. at 3. Nor does Colgate challenge summation of

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its activities set forth in the Motion, which shows that Colgate has not filed for an APD with the BLM, but has only sent out election letters, that can be easily re-sent if the Commission rules in its favor. See Motion at ¶ 14. Thus, the Commission cannot determine what real world effect granting a stay will have on Colgate's actual drilling of the proposed wells. In other words, granting a relatively short stay of Order R-21575 until the outcome of the *de novo* hearing would, in effect, maintain the actual *status quo* since Colgate has not shown it would have any substantial effect on its drilling program. Furthermore, the Commission should weigh any nominal delay in Colgate's proposed operations against the very real risk that if Colgate proceeds as planned, it may be acting upon an invalid order. The Commission should take every precaution, including the granting of the stay to avoid such risks.

5. Moreover, the decision in *Legacy Church* did not involve the issue of whether an administrative agency should issue a stay of one of its own orders. Instead, that decision involved a motion for a preliminary injunction seeking to enjoin the enforcement of a public health order issued by the New Mexico Department of Public Health. While it is true that a preliminary injunction seeking to alter the *status quo* between the parties is "disfavored," there are no "disfavored" categories for requests made to an administrative agency to stay one of its own orders pending completion of the administrative process. Instead, the Commission has the discretion to grant a stay "if granting the stay would prevent waste, protect correlative rights, protect public health or the environment or present gross negative consequences to an affected party." *Id*.

C. Conclusion

6. Cimarex respectfully requests that the order to stay be granted. In its Conclusion, Colgate expresses concern about the consequences of granting a stay opening the doors to filing competing applications ***after valid*** orders and ***valid*** hearings have been conducted. *See* Response

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at p. 4. Those concerns are misplaced under the facts of this case because Colgate failed to submit a complete application to the Division prior to Cimarex entering its appearance in this case and, more importantly, it not only ignored its statutory and regulatory duty to attempt to obtain a voluntary pooling agreement, it misrepresented this fundamental fact in order to obtain the force pooling order that Cimarex is seeking to stay.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ William E. Zimsky

_____

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on April 9, 2021:

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AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Tuesday, June 29, 2021 12:03 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; Terry Warnell <twarnell@att.net>
Subject: FW: Cimarex's Reply to Colgate re Procedure Case 21744
Attachment(s): "Cimarex's Reply re Procedure Case 21744 062921.pdf"

From: Darin Savage <darin@abadieschill.com>
Sent: Tuesday, June 29, 2021 9:46 AM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; brent.mcdonald@prosperitybankusa.com; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>; Moander, Christopher <cmoander@nmag.gov>
Subject: Cimarex's Reply to Colgate re Procedure Case 21744

Good morning,

We are attaching for filing, see below, Cimarex's Reply re the motion to invalidate Colgate's Order No. 21575. After this submission, the Commission should have received all pleadings due for the July 8 motion hearing for Case 21744.

I reviewed the portal to see if there was a way to submit the Reply to the OCC, but the closest option I saw for filing through the portal was the "Other Motion" option, which looked liked it filed it with the OCD. Since I was uncertain, I decided to send it to the OCC email address to ensure receipt. If some guidance is available for using the portal for OCC submissions, I will be sure to follow for any future filings.

Thank you,

Darin

DARIN SAVAGE

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION COMMISSION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Division Order No. R-21575
Commission Order Nos. R-21679, R-21679-A & R-21679-B

CIMAREX ENERGY CO.'S REPLY TO COLGATE OPERATING, LLC'S RESPONSE TO CIMAREX'S MOTION TO INVALIDATE AND VACATE ORDER NO. R-21575

Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), submit to the Oil Conservation Commission ("Commission") its Reply to Colgate Operating, LLC's ("Colgate") Response to its Motion to Invalidate and Vacate Colgate's Order No. R-21575 ("Reply"). In support of its Reply, Cimarex states the following:

I. Summary of Argument.

1. The Division issued Order No. R-21575 based on its understandable reliance[1] on Colgate's misrepresentation that it fulfilled the primary statutory prerequisite mandated by 1978 NMSA §70-2-17(C) for being able to file a compulsory pooling application, *viz*., Colgate negotiated in good faith but was unable to reach a voluntary pooling agreement.

[1] The Division's reliance on Colgate's misrepresentation is understandable since it was presented as sworn testimony and the Division affords such testimony a presumption that the representations made under oath are true and accurate on which the Division should be able to rely. If an applicant is found to have violated this trust, proper consequences should ensue.

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2. In its Motion to Invalidate, Cimarex argued that the Commission should not let the Division's compulsory pooling Order stand since Colgate's application was defective as filed, vitiating the basis for conducting a hearing in the first instance. Exercising its authority to invalidate Colgate's Division Order would allow the Commission to remand Cimarex's applications to the Division for hearing along with the re-submission of Colgate's applications; thus, Cimarex would be restored to its original position prior to the harm caused by Colgate, and Colgate would receive the benefit of a truly "new" hearing and "fresh" start by satisfying its statutory obligations at the Division-level, which Colgate should have done in the first instance.

3. In its Response, Colgate suggests that the Commission has already decided not to invalidate Order No. R-21575 since it granted Cimarex's Motion to Stay that Order and did not, *sua sponte*, invoke its inherent power to invalidate the Order. However, since Cimarex only requested a stay of the Order at that point in the proceedings and only recently requested that the Commission invalidate the Order, Colgate's argument in this regard lacks merit.

4. In addition, Colgate glosses over the fundamental and disturbing defect in its application that nullifies the legitimacy of Order No. R-21575. Colgate instead suggests that a *de novo* review will wash away its sins by allowing the Commission to try "anew" the issue of whether Colgate conducted good faith negotiations for a voluntary pooling agreement, ignoring the fact that the Commission has already offered its conclusions on Colgate's transgressions which, along with other conclusions, established grounds for denying Colgate's motion to dismiss the application for a hearing *de novo.* *See* Order No. R-21679, at §II.i. What remains is for Colgate to rectify and remediate the harm it caused at the Division-level, and this is best accomplished by Colgate's re-submitting its application to the Division where it can satisfy its statutory obligations.

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5. Finally, Cimarex submits that it should receive the benefit of having its applications remanded to the Division for hearing, a benefit extended to other parties before the Commission, but remanded in a manner that is within the parameters of, and consistent with, the proper requirements of §70-2-13. In the present case, not only is there a proper procedure available for remanding Cimarex's cases by invalidating Colgate's Order, but as shown below, the invalidation of Colgate's Order is fully warranted and justified under the facts and findings. The decision to invalidate Colgate's Order would afford Cimarex the same benefit of remand to the Division allowed other parties, but under procedures that avoid risk of challenge or appeal.

II. The Commission's inherent power to invalidate and vacate Colgate's Order No. R-21575 was not diminished by its decision to grant Cimarex's application for a *de novo* hearing and should be exercised, and the Order invalidated, under its findings and conclusions.

6. In its Response, Colgate suggests that because the Commission has the inherent power to dismiss Order No. R-21575, but only issued a stay of that Order, that the Commission determined that Order R-21575 should not be dismissed. *See* Colgate's Response at p.1 (Section A, Introduction). The fact that the Commission did not, *sua sponte*, exercise its inherent authority to invalidate a Division order does not mean that it should never consider the issue and certainly does not bar a party from specifically requesting that the Commission actually make such a determination.

7. After the final motion hearing on April 15, 2021, the Commission denied Colgate's motion to dismiss Cimarex's application for a hearing *de novo*. *See* Order No. R-21679, §III. Since the only motion before the Commission at the time was Colgate's motion to dismiss the *de novo* application, the Commission rightly denied the motion in accordance with its findings and conclusions.

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8. However, the findings and conclusions, once determined, raised other issues, which were not available for consideration by the Commission prior to the issuance of Order No. R-21679, and contrary to Colgate's assertions, the Commission's decision to deny Colgate's motion to dismiss does not strip the Commission of its authority to rule on subsequent issues that arise from the Order. Thus, Cimarex properly raised the remaining issues in its Motion to Invalidate, and the Commission clearly has the authority and jurisdiction to grant Cimarex's request.

9. Among the remaining issues is whether Colgate deserves to have its order maintained as valid and to qualify for the privilege of defending it in a *de novo* hearing. Given the gravity of Colgate's false representations before the Division, Cimarex urges that Colgate has not earned such privilege and should not be allowed to retain possession of an order that, under New Mexico case law, should be deemed invalid in light of the new evidence received by the Commission. *See Property Tax Department v. Molycorp, Inc.,* 1976-NMSC-072 ¶ 11, 89 N.M. 603 (holding that an administrative agency has inherent power to cancel and revoke an order that *is found to be issued* in conflict with the statutes governing and limiting the issuance thereof) (emphasis added).

10. The Commission discovered, upon the presentation of evidence not available to the Division, that the Division issued Order R-21575 in conflict with the governing statutes rendering the Order invalid. *See id.* at ¶ 12 (holding that if an agency issues an order in violation of its rules, such an order is "unauthorized and *ultra vires*.") If the validity of Colgate's Order is maintained, the harm to the judicial process caused by Colgate's false representations remains un-remediated and would infiltrate the remainder of the proceedings.

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III. Colgate cannot invoke the nature of a *de novo* hearing to absolve it of its past misdeeds committed before the Division when new evidence highlighting such deeds is now of record before the Commission.

11. Colgate cleverly, but wrongly, urges that the history of Colgate's misdeeds before the Division has no consequence and should be erased and the case tried anew before the Commission, apparently based on its misplaced belief in the cleansing powers of a *de novo* hearing. *See* Colgate's Response, at its Conclusion, ¶ 2.

12. Colgate cites *Doe v. United States,* 821 F.2d 694 (D.C. Cir. 1987) in an attempt to show that the Commission should include Colgate's order in the *de novo* hearing and review it "from a fresh and independent standpoint." *See* Colgate's Response, Section B, at ¶ 3. However, the *Doe* court did not determine that a *de novo* hearing should automatically be a *tabula rasa* proceeding, but first looked to the nature of the *de novo* hearing -- the specific meaning of *de novo* -- contemplated by the statute. *See Doe v. United States*, 821 F.2d at 697. There are various forms of *de novo* hearings, some which consider findings of prior proceedings and others which do not. "To pare this controversy down to its core," asserted the *Doe* court, "we address first the question whether the term *'de novo'* in the [statute] means something less than what that expression generally signals." *Id*. Similarly, Cimarex respectfully submits that the Commission should review and make a determination of the meaning of *"de novo"* in §70-2-13.

13. Such review should consider the following factors: first, a *de novo* hearing before the Commission can, and often does, include the record of the Division, upon a party's request to include the Division's record in the Commission's appellate proceedings, and upon its admission, the Division's record becomes part of the "whole record" before the Commission. Second, review of the legislative history of §70-2-13 clearly shows that the original drafters

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intended that the record of the Division be considered along with additional evidence, including new evidence, presented at the *de novo* hearing. *See* Commission Case No. 903, at p. 24.[2] Third, the new evidence in this case provided by Cimarex, showing that Colgate's Order is invalid under the criteria of *Molycorp,* is already of record before the Commission for proper determination of the Order's final status, and this evidence cannot be eradicated from the record by erasure pursuant to a hearing *de novo* before the Commission.[3]

14. Therefore, the Commission can, and should, conclude based on the facts and evidence in the existing record that Colgate's original Order is invalid. Such ruling would be proper and consistent with legal precedent; it would be a decision supported by review of the whole record; and it is necessary for remediating the harm caused by Colgate to the adjudicatory process and Cimarex's rights under the New Mexico Oil and Gas Act. Colgate's Response advocates for Colgate to enter the *de novo* hearing with black marks against it, the existing evidence that Colgate did not conduct good faith negotiations. *See* Colgate's Response, at its Conclusion, ¶ 2. The Commission should not proceed with a hearing under such clouds of

---

[2] *See also* additional discussion in Commission Case No. 903, at p. 24-25, showing agreement among the drafters that the proper form of *de novo* hearing in §70-2-13 would consider the Division's record but allow for new evidence:
GOVERNOR SIMMS: I think Bill is interpretating it as really *de novo* and not *de novo* on the record [*de novo* on the record meaning limited just to the record of the Division].
MR. KITTS: I feel that way. Is that the way you feel about it?
MR. KELLAHIN: Yes. I think you ought to consider the record before the [Division] Examiner.
MR. KITTS: Then we are in agreement.

[3] *See Bass Enters. Prod. Co. v. Mosaic Potash Carlsbad Inc.,* 2010-NMCA-065, a case relied heavily upon by Colgate, shows that the Commission should make its decision to invalidate Colgate's Division Order upon the whole record before it, which includes new evidence of Colgate's misrepresentations provided by Cimarex: "For purposes of reviewing administrative decisions, the substantial evidence rule is modified to include whole record review." *Mosaic,* 2010-NMCA-065, ¶ 28 (emphasis added). "Under whole record review, evidence is viewed in a light most favorable to upholding the agency's determination, but favorable evidence is not viewed in a vacuum that disregards contravening evidence." *Id.* (*citing Santa Fe Exploration Co. v. Oil Conservation Comm'n of N.M.,* 114 N.M. 103, 114, 835 P.2d 819, 830 (1992)). "The reviewing court needs to find evidence that is credible in light of the whole record and that is sufficient for a reasonable mind to accept as adequate to support the conclusion reached by the agency." *Id.*

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misconduct but should require Colgate to re-submit its application to the Division in order to clear its tarnished record.

15. Finally, by ruling the Order invalid, the Commission would allow the Division to fully review Cimarex's development plan, now docketed by the Division as Case Nos. 22018 and 22019, on equal footing with Colgate's development plan in a manner that adheres to procedural requirements regarding the proper forum for review. The importance of following the correct procedural path cannot be overstated. As the New Mexico Supreme Court has long recognized:

> The essence of justice is largely procedural. Procedural fairness and regularity are of the indispensable essence of liberty.

Uhden v. New Mexico Oil Conservation Com'n, 112 N.M. 528, 530-531, 817 P.2d 721, 723-724 (N.M. 1991).

IV. Conclusion:

For the foregoing reasons, Cimarex respectfully maintains its request that the Commission invalidate and vacate Division Order No. R-21575 on grounds that, as demonstrated by new evidence, Colgate failed to meet its statutory obligation under §70-2-17(C) and consequently caused harm to both the judicial process and Cimarex which warrants a proper response. Therefore, in light of the new evidence of record, and legal precedent established by *Molycorp*, Cimarex requests that Colgate's Order be ruled an invalid order.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

Darin C. Savage

William E. Zimsky
Andrew D. Schill

AMERICAN OVERSIGHT

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NM-EMNRD-22-0512-B-000824

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record, or on the party of record, if no counsel was provided, via electronic mail on June 29, 2021:

Ernest L. Padilla
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PadillaLawNM@outlook.com
Attorney for Colgate Operating, LLC

Brent McDonald
Senior Vice President,
Prosperity Bank f/k/a American
State Bank, Trustee of the J.M.
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1401 Avenue Q
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/s/ Darin C. Savage

Darin C. Savage

AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Monday, June 14, 2021 11:53 AM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; Terry Warnell <twarnell@att.net>; Moander, Christopher <cmoander@nmag.gov>
Subject: FW: Cimarex's Response to Colgate's MTD Case 21744
Attachment(s): "Cimarex's Response to Colgate's MTD Case 21744 061121.pdf"

From: Darin Savage <darin@abadieschill.com>
Sent: Friday, June 11, 2021 1:47 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>; Ernest Padilla <padillalawnm@outlook.com>; Bill Zimsky <bill@abadieschill.com>; Andrew Schill <andrew@abadieschill.com>
Subject: [EXT] Cimarex's Response to Colgate's MTD Case 21744

Good afternoon,

Please find attached for filing the Response to Colgate's Motion to Dismiss Cimarex's Applications in Case No. 21744 that we are submitting on behalf of Cimarex Energy Co.

Thank you,

Darin

DARIN SAVAGE

Abadie | Schill P.C.

214 McKenzie Street, Santa Fe, New Mexico 87501

*P | **970.385.4401** :: F | **970.385.4901** :: C | **970.764.8191***

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING, EDDY COUNTY, NEW MEXICO

Commission Case No. 21744
Division Case No. 21629
Order No. R-21575
Order No. R-21575-A
Order Nos. R-21679, R-21679-A, and R-21679-B

CIMAREX ENERGY CO.'S RESPONSE TO COLGATE OPERATING, LLC'S MOTION TO DISMISS CIMAREX'S APPLICATIONS

In response to the Motion to Dismiss Cimarex's Applications ("Motion to Dismiss") submitted by Colgate Operating, LLC ("Colgate") to the New Mexico Oil Conservation Commission ("Commission"), Cimarex Energy Co., and its affiliate Magnum Hunter Production Inc. (collectively "Cimarex"), respectfully request that Colgate's Motion to Dismiss be denied. In support of its Response to Colgate's Motion to Dismiss, Cimarex states the following:

I. Relevant Background and Procedural History.

1. On June 1, 2021, Cimarex filed its applications with the New Mexico Oil Conservation Division ("Division") in Case Nos. 22018 and 22019 covering the N/2 of Sections 1 and 2, Township 20 South, Range 29 East; and the N/2 of Section 6, Township 20 South, Range 30 East, NMPM, Eddy County, New Mexico.

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2. Cimarex filed these applications with the consent of the Commission to remediate the harm to the judicial process as well as to Cimarex caused by Colgate's misrepresentations in Case No. 21629. *See, i.e.,* Preliminary Order No. R-21679-B at ¶ 3 ("Cimarex shall file all competing pooling applications by 5:00 P.M. June 3, 2021").

3. Cimarex's applications should be reviewed because not only do they provide a superior development plan for optimal production, the prevention of waste, and protection of correlative rights than those proposed by Colgate, but these applications qualify as a "matter" related to the original hearing in Case No. 21629 under NMSA 1978 § 70-2-13."

4. In Order No. 21679, the Commission concluded that Cimarex meets the requirements under *New Energy Economy, Inc., v. Vanzi,* 2012-NMSC-5, to be deemed a party of record, and "likewise, meets the requirements found in… [NMSA 1978 §] 70-2-13. Order No. R-21679 § II.k. Therefore, under § 70-2-13, Cimarex has a right to have heard what the Commission deems to be a "matter" of the original hearing in Case No. 21629. Cimarex respectfully submits that the competing applications which Cimarex would have presented at the original hearing for the Division's review, absent Colgate's failure to fulfill its statutory obligations, should be included as part of the *de novo* review.

5. The Parties held a status conference with the Commission on May 13, 2021, setting dates for pleadings and subsequent filings, including the filing of Cimarex's competing applications, which were filed with the Division at the behest of the Commission on June 1, 2021, prior to the June 3 deadline. Cimarex asked the Commission to determine the proper forum for hearing the competing applications, whether before the Division or the Commission, pursuant to issues addressed in Cimarex's Motion to Invalidate and Vacate Colgate's Order No. R-21575 ("Motion to Vacate") filed with the Commission on June 2, 2021, in Case No. 21744.

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II. Cimarex's competing applications as filed in Case Nos. 22018 and 22019 are ripe for review and should not be dismissed.

6. The Bureau of Land Management ("BLM") has delegated responsibilities for pooling oil and gas units involving federal lands and potash interests to the Division and Commission for determinations of waste and protection of correlative rights and relies on, and generally defers to, the agencies' judgement for decisions that fall within the New Mexico Oil and Gas Act ("Act"). This remains true unless there are specific federal regulations or statutes that prohibit the state agencies from exercising their authority and jurisdiction.

7. In its Motion to Dismiss, Colgate fails to provide any federal regulations or statutes that prohibit the Division or Commission from reviewing and adjudicating Cimarex's applications. Colgate's assertions offer only unsubstantiated speculation whether the BLM would ultimately approve Cimarex's development area, approval which Cimarex is currently working with the BLM to obtain. Colgate's speculations could just as easily be applied to the risk that Colgate may not receive approval of its federal APDs, for which it has not applied, and for which the BLM is the lead agency for making the final determination whether to grant Colgate a federal APD. Absent extenuating circumstances, such as a specific federal rule or statute prohibiting the granting of a development area or APD, it is reasonable for the Commission to presume, as it does under its current practice, that the BLM will grant federal approval based on the Commission's or Division's decision and recommendations.

8. Contrary to Colgate's speculations about hypothetical restrictions on Cimarex's development plan, the BLM has informed Cimarex that there are no potash restrictions undermining the feasibility of its plan as proposed. According to conversations with the BLM, the lateral in the N/2 N/2 (crossing from west to east, Sections 2, 1 and 6) does not require BLM approval of a development area, and 2 ½ miles of the lateral in the S/2 N/2 of said Sections can be

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developed without approval, leaving a requirement of notice and final approval only for the remaining 140 acres in Section 6, which would be granted upon proper completion of the application process.

9. Cimarex's development plan includes a mix of both federal and state lands. Order No. R-111-P, at ¶ 10, clearly empowers the Division, under the Act, to review Cimarex's development plan, in order "'to regulate and, where necessary, prohibit drilling or producing operations for oil and gas' in areas which would cause waste as described in 70-2-3 F." Thus, Order No. R-111-P does not preclude the Division or Commission from taking the lead preforming its integral role in regulating the development of oil and gas in the potash areas, nor does it specify the order in which the review of a development plan by the Division, Commission, and BLM should occur. The interactive nature of this process, among the agencies, is reflected and endorsed by Secretarial Order No. 3324, which requires the BLM to consider the Division's rules, regulations and orders: "In taking any action under Section 6.e. of this Order [Oil and Gas Drilling], *the Authorized Officer will take into consideration the applicable rules and regulations of the NMOCD.*" Order No. 3324 at ¶ 5(c) (emphasis added).[1]

[1] Current practice of the Division and Commission provides examples where the state agencies took the primary lead to determine proper development of oil and gas involving federal lands when no preemptive federal rule or statute barred such lead. In Division Case Nos. 16481-82, for example, the applicant's development area had not yet been approved by the BLM for the potash area at the time of the Division hearing. Counsel for an interested party submitted a Motion to Dismiss the application arguing the BLM had primary jurisdiction and therefore the application was premature. The Division denied the Motion and proceeded with the case, issuing the final order granting operatorship to the applicant. The BLM in reliance on the Division's Order No. R-21258 approved the applicant's plan in the potash area.

In Commission Case Nos. 21475 and 21276, the applicant, who received BLM approval of both its development area and drilling locations in the potash area, had its order challenged at the Commission in a *de novo* hearing. The Commission found, based on state criteria, that the appellant presented a superior development plan, and despite the BLM having approved the applicant's development area and drilling islands, the Commission ruled against the applicant and awarded operatorship to the appellant. In accordance with Order No. R-111-P and Secretarial Order No. 3324, the BLM followed the Commission's lead in upholding the appellant as the rightful operator.

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10. Current practice by the Division and Commission provides no precedent or justification to dismiss Cimarex's applications which are ripe for review. *See* Footnote 1, below. The Commission has already granted Cimarex its application for a hearing *de novo,* in Case No. 21744, and has docketed and set aside time to hear whether Colgate's application in Case No. 21629 constitutes a proper plan. It will be an efficient use of the Commission's time and resources to utilize the time already allotted for the *de novo* hearing to compare Colgate's and Cimarex's plans to ensure that the Commission will select the best plan for development. Furthermore, if the Commission rules in favor of Cimarex on its Motion to Vacate Order No. R-21575, then the Division would be allowed to properly review Cimarex development plan without additional burden to the Commission.

III. Cimarex's proposed development plan does not strand Section 5, Township 20 South, Range 30 East, NMPM; does not create waste; and represents a feasible plan for development in the potash area.

11. The laterals of Cimarex's proposed Crest wells begin in Section 2 and extend to Section 6 in order to efficiently develop the Bone Spring formation. Colgate argues that Cimarex's plan will likely strand Section 5. *See* Colgate's Motion to Dismiss at p. 2. However, the Bone Spring formation in Section 5 is being produced by the Solution Federal Com 3H and 4H wells (API Nos. 30-015-43227 and 30-015-44011), through standup units that extend from Section 5 to Section 8. Cimarex's development plan for the Bone Spring extends into Section 6, adjacent to Section 5, which is as far as can be extended for optimal production. Therefore, Cimarex's plan does not waste or strand acreage. Finally, a review of wells already in place in Sections 1 through 5, Township 20 South, Range 30 East, show that oil and gas development is feasible in this potash area under federal rules and regulations. *See, i.e.,* Crazy Horse 0304 Fed Com 4H Well (API No. 30-015-45241) which traverses Sections 3 and 4.

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Conclusion:

For the foregoing reasons, Cimarex respectfully requests that the Commission deny Colgate's Motion to Dismiss Cimarex's Applications. There is no justification for their dismissal under the Commission's rules and regulations. Moreover, Order No. R-111-P and Secretarial Order No. 3324 militate against their dismissal. Proceeding with the hearing of Cimarex's applications before the Commission would promote administrative efficiency and allow the Commission to decide which set of applications will best prevent waste and protect correlative rights. Thus, Cimarex requests that the Commission proceed with its review of Cimarex's applications in Case Nos. 22018 and 22019 as planned.

Respectfully Submitted,

ABADIE & SCHILL, PC

/s/ Darin C. Savage

_____

Darin C. Savage

William E. Zimsky
Andrew D. Schill
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Attorneys for Cimarex Energy Co., and Magnum Hunter Production, Inc., an affiliate of Cimarex Energy Co.

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was filed with the New Mexico Oil Conservation Commission and was served on counsel of record via electronic mail on June 11, 2021:

Ernest L. Padilla
P.O. Box 2523
Santa Fe, NM 87504
(505) 988-7577
PadillaLawNM@outlook.com
Attorney for Colgate Operating, LLC

/s/ Darin C. Savage
_____
Darin C. Savage

AMERICAN OVERSIGHT

From: Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Sent: Wednesday, July 07, 2021 4:29 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: FW: IOGCC Special Meeting - Flight Arrangements - August 15-17, 2021

Subject: IOGCC Special Meeting - Flight Arrangements - August 15-17, 2021

Greetings!

If you have requested a scholarship for transportation and will be flying, you have a couple of options for making airline reservations:

- You may arrange your own flight and ask for reimbursement later. If you choose this option, please send me your flight information before you make the reservation so we may pre-approve the cost to be reimbursed.

- You may ask me to make your flight arrangements for you. If you choose this option, please send me the information below. I will obtain your approval of the proposed itinerary and obtain necessary personal identifying information from you before making your reservations.

  Preferred airline(s)
  Preferred time of departure on both ends of trip
  Seat preference; aisle or window.

If you will be using another mode of transportation, please give me a call to discuss your needs.

Please let me know if you have any questions.

We look forward to seeing everyone in Colorado Springs!

Cynthia L. McCollum
Administrative Coordinator
Interstate Oil & Gas Compact Commission
405-522-8385
Cynthia.mccollum@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Wednesday, June 02, 2021 6:02 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Gregory B. Bloom (gbloom@slo.state.nm.us) <gbloom@slo.state.nm.us>; twarnell@att.net <twarnell@att.net>
Subject: FW: OCC Case 21744 Motion to Dismiss Cimarex Applications
Attachment(s): "Motion to Dismiss Cimarex Applications w-Exhibits A-C attached.pdf"

From: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Sent: Wednesday, June 2, 2021 4:01 PM
To: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Subject: Fw: OCC Case 21744 Motion to Dismiss Cimarex Applications

---

From: Ernest Padilla <PadillaLawNM@outlook.com>
Sent: Wednesday, June 2, 2021 2:40 PM
To: Hearings, OCC, EMNRD <OCC.Hearings@state.nm.us>
Cc: Darin Savage <darin@abadieschill.com>
Subject: [EXT] OCC Case 21744 Motion to Dismiss Cimarex Applications

Ladies & Gentlemen:
Attached please find our Motion to Dismiss Cimarex Applications being filed on behalf of Colgate Operating, LLC. Please let us know if you require anything further. Thank You.

JoAnn B. Gallegos
Office Manager
Padilla Law Firm, P.A.
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Santa Fe, NM 87504
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STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING CALLED BY THE OIL CONSERVATION DIVISION FOR THE PURPOSE OF CONSIDERING:

APPLICATION OF COLGATE OPERATING, LLC FOR COMPULSORY POOLING EDDY COUNTY, NEW MEXICO.

Commission Case No. 21744
Case Nos. 21629
Order No. R-21575
Order No. R-21575-A
Order No. R-21575-B

MOTION TO DISMISS CIMAREX APPLICATIONS

Colgate Operating, LLC ("Colgate"), by and through its undersigned attorney, moves the Oil Conservation Commission ("Commission") for dismissal of the competing applications which undoubtedly will be filed concurrently with this motion by Cimarex Energy Co. ("Cimarex") in accordance with its well proposals. As grounds for dismissal, Colgate, states:

A. Introduction.

Attached hereto as Exhibit A is a map showing Cimarex's proposed competing three-mile spacing unit for three-mile laterals which cover the N/2 of Sections 1 and 2, Township 20 South, Range 29 East, and the N/2 of Section 6, Township 20 South, Range 30 East, Eddy County, New Mexico. The Cimarex proposals are stretched to overlap the spacing units approved in Colgate's Division Order R-21575 which covers in part the N/2N/2 of Section 2. Clearly, Cimarex's well proposals, shown by the bold black outline on Exhibit A, are designed simply to cloud the Colgate spacing units comprised of the N/2N/2 of Sections 2 and 3, Township 20 South, Range 29 East and are thinly veiled attempts as competing proposals and applications.

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The Cimarex spacing unit is at least partially if not fully out of compliance with BLM potash requirements. The green shading on Exhibit A represents approved Development Areas. The orange outline is the primary boundary for the potash area also clearly within the potash area in Section 1 and 6, set under Commission Order R-111(P) which the BLM follows. A copy of Commission Order R-111-P is attached hereto as Exhibit B. Exhibit A of Order R-111-P shows that the SE/4NE/4 and the E/2SE/4 of Section 1 are within the Potash Area as described in the Order. Attached as Exhibit C attached hereto is a copy of an email from James Rutley of the BLM District Office in Carlsbad indicating that if the surface or bottom hole traverses the State Potash Boundary (the Orange colored boundary line) a development area designation is required. Colgate's spacing unit in Section 2 and 3 do not need a development area designation by the BLM.

Cimarex has not even attempted to begin the development area process, Cimarex cannot get approved APDs on at least a portion of their counter proposed acreage and maybe not all of it without first applying for a development area designation. At this point, without any pending application to the BLM for a development area and a drilling island, it is unknown what drilling restrictions the BLM will adopt for oil and gas development. For example, given that there are sub-surface mines shown in blue, the BLM may require that part of Section 1, and all of Sections 5 and 6 be developed together. Section 2 is the only state tract in the Cimarex proposal.
It is likely under the Cimarex proposals that Section 5, shown in red on Exhibit A, will be stranded.

The lands covered by the proposals of Cimarex are within the Designated Potash Area as governed by Oil Conservation Commission Order R-111-P and Department of Interior Order No. 3324 ("Order No. 3324").

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Blue shading represents pending Development Area applications.

B. The applications are premature until such time as the BLM approves a potash development area.

As a preliminary matter the BLM is the lead agency in determining and approving the potash area developing area. Order R-111-P issued rules for drilling well within the Potash Area. Rule G (Designation of Drillable Location for Wells) (e)(3) states in part: "[d]rilling applications on federal lands will be processed for approval by the BLM." Colgate does not question that the Division and the Commission set spacing and compulsory pooling requirements, but within the Potash Area as established in Order R-111-P, the BLM, on federal lands, must first establish a Development Area and drilling island.

Obviously, the development area process is a condition precedent to compulsory pooling or approval of APDs.

Order No. 3324 defines a Development Area as follows:

> Development Area. An area established by the BLM with the Designated Potash Area in consideration of appropriate oil and gas technology such that wells can be drilled from a Drilling Island capable of effectively extracting oil and gas resources while managing the impact on potash resources. Each Development Area will typically have only one Drilling Island, subject to narrow exceptions based on specific facts and circumstances. All new oil and gas that penetrate the potash formations within the Development Area will be drilled from the Drilling Island(s) associated with the Development Area. The boundaries of each Development Area will be determined in conformity with Section 6.e.(2).

Section 6.e.(2)(a)states:

> When processing an application for permit to drill (APD) an oil or gas well in the Designated Potash area that complies with regulatory requirements, the Authorized Officer will determine whether to establish a Development Area in connection with the application, and if so, will determine the boundaries of the Development area and the location within the Development Area of one or more Drilling Islands from which drilling will be permitted. The BLM may also designate a Development Area outside of the APD process based on information in its possession, and may modify the boundaries of a Development Area. Existing wells may be included within the boundaries of a

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> Development Area. A Development Area may include Federal oil and gas leases and other Federal and non-Federal lands.

Until a Development Area and a Drilling Island is established by the BLM, compulsory pooling and designation of spacing units as requested in the Cimarex proposals by the Commission may be rendered meaningless. Holding a hearing on Cimarex's competing proposals are clearly premature at this time and a waste of time for the Commission. There simply are too many variables that affect a Division determination. It is not inconceivable that the ultimate Development Area designated by the BLM could have the effect of negating all or portions of the Cimarex proposals before the BLM submitted by Ascent and Apache.

For the Commission to now proceed with hearing the applications to be filed by Cimarex based on its well proposals and for the Commission to issue orders would be putting the cart before the horse. Potash Assn. of New Mexico v. U.S. Dept. of the Int., CV 06-1190 MCA/ACT, 2008 WL 11359154, at *2 (D.N.M. Aug. 29, 2008) illustrates the BLM's determination process as follows:

> The IBLA defined the principal issue to be addressed at the hearing as "whether BLM's denial of the APD's accords with the provisions of the 1986 Order." Id. at 235. In particular, the IBLA directed that there be further inquiry on:
>
> whether the APD's encompass lands within areas qualifying as potash enclaves under the parameters established by section 3.III.D.1.c. of the Order, i.e., whether the lands are currently unmined areas within Federal potash leases where potash ore is known to exist in sufficient thickness and quality to be mineable under existing technology and economics, and whether approving the APD's would result in undue waste of potash deposits or constitute a hazard to or unduly interfere with mining operations being conducted for the extraction of potash deposits.
>
> Id. at 235-36 (footnote and quotation marks omitted).

C. Conclusion.

It is not the province of the Commission in these cases for the Commission to determine the Development Area which may or may not ultimately coincide with a future Development

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Area or APDs filed by Cimarex. While the Commission may have authority over compulsory pooling, it is illusory at this time for the Commission to proceed and issue orders on the proposals and applications filed by Cimarex before a BLM determination on a Development Area and Drill Island and later issuance of federal APDs.

WHEREFORE, for the foregoing reasons the Cimarex proposals and applications should be dismissed.

Respectfully submitted,

PADILLA LAW FIRM, P.A.

By: ***/s/ Ernest L. Padilla***

Ernest L. Padilla
PO Box 2523
Santa Fe, NM 87504
(505) 988-7577
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was electronically mailed to the following:

Darin C. Savage darin@abadieschill.com

on this 2nd day of June, 2021.

/s/ Ernest L. Padilla
Ernest L. Padilla

AMERICAN OVERSIGHT

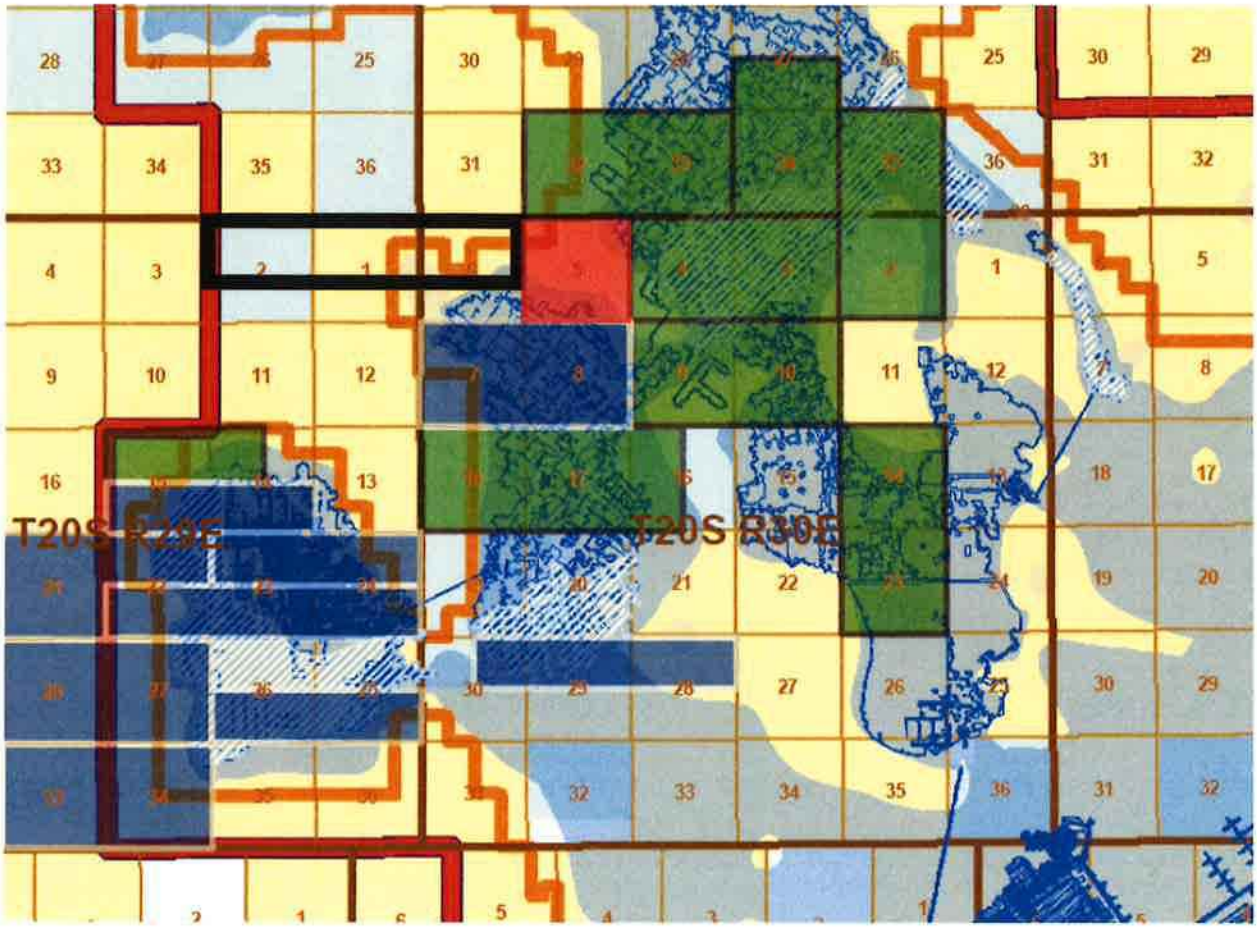

EXHIBIT A

AMERICAN OVERSIGHT

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPT.
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
COMMISSION OF NEW MEXICO FOR
THE PURPOSE OF CONSIDERING:

CASE NO. 9316
Order No. R-111-P

APPLICATION OF THE OIL CONSERVATION
DIVISION UPON ITS OWN MOTION TO
REVISE ORDER R-111, AS AMENDED, PERTAINING
TO THE POTASH AREAS OF EDDY AND LEA
COUNTIES, NEW MEXICO.

ORDER OF THE COMMISSION

BY THE COMMISSION:

This cause came on for hearing at 9:00 a.m. on February 18, 1988, at Santa Fe, New Mexico, before the Oil Conservation Commission of New Mexico, hereinafter referred to as the "Commission."

NOW, on this 21st day of April, 1988, the Commission, a quorum being present, having considered the testimony presented and the exhibits received at said hearing, and being fully advised in the premises,

FINDS THAT:

(1) Due public notice having been given as required by law, the Commission has jurisdiction of this cause and the subject matter thereof.

(2) Order R-111-A was entered July 14, 1955, and since that time no amendments have been entered, except amendments to Exhibit "A" attached thereto, despite significant advances in drilling technology and practices.

(3) Operation under Order R-111-A has become virtually unworkable because of 1) the lack of tolerance on the part of both oil/gas and potash industries in regarding the activities of the other industry in areas where leasehold interests are overlapping and 2) confusion recording the boundaries of the known Potash Leasing Area (KPLA) established by the U.S. Bureau of Land Management (BLM) and the R-111-A area as amended by Orders R-111-B through O.

EXHIBIT B

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CO The then Director of the Oil Conservation Division (OCD) by memorandum dated March 21, 1986 convened a study committee of volunteer representatives from the oil and potash industries and other interested parties.

(5) The committee met May 29, September 25-26, and November 13-14 (field trip) in 1986 and on March 19, 1987.

(6) By committee agreement a work committee was formed from the larger committee consisting of three members and one alternate from each industry and this work committee was chaired by the OCD Chief Petroleum Engineer and charged with the responsibility to develop proposed amendments to Order R-111-A. It met on April 30, May 1, July 23-24 and November 23, 1987.

(7) Each meeting of the work committee was held in the presence of representatives of both BLM and OCD; and at its final meeting November 23, 1987 an agreement was reached and signed by the committee members present, which agreement is attached hereto as Exhibit "B", for the purpose of providing background information and acknowledging the concensus reached by representatives of the Oil and Gas and Potash industries relating to the multiple use of resources in the potash area.

(8) Exhibit "B" is regarded by the Commission as a report of both the work committee and the full study committee since a draft copy of a nearly identical agreement was furnished to each member of the study committee for comment, and comments received thereon were addressed at the final meeting.

(9) The agreement represents a compromise by both industries, the potash operators relinquishing lower grade marginal or uneconomic ore deposits in order to more fully protect their higher grade ore deposits; and the oil/gas operators receiving such lands containing sub-economic ore deposits as prospective drill-sites.

(10) The Oil and Gas Act, 70-2-3 F NMSA 1978, declares as waste "drilling or producing operations for oil or gas within any area containing commercial deposits of potash where such operations would have the effect unduly to reduce the total quantity of such commercial deposits of potash which may reasonably be recovered -- or where such operations would interfere unduly with the orderly commercial development of such potash deposits".

(11) The Oil and Gas Act in 70-2-12 B(17) empowers the Division "to regulate and, where necessary, prohibit drilling

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or producing operations for oil and gas" in areas which would cause waste as described in 70-2-3 F.

(12] The report of the work committee presents a reasonable process for determining where wells for oil and gas would cause waste of potash and the pertinent portions of said report should be contained in the order as a reasonable process for prohibiting oil and gas drilling in such areas in the absence of substantial evidence that waste of potash as described by the statute would not result.

(13) Release of methane into potash mine workings would endanger the lives of miners and would render further mining activities uneconomic because of the additional, and more expensive safety requirements which would be imposed by the Mine Safety and Health Administration (MSHA) of the U.S. Department of Labor.

(14) Salt and potash deposits are essentially non-porous and impermeable but are inter-bedded with clay seams which, in an undisturbed state are porous but of extremely low permeability.

(15) Primary mining activity creates minor localized disturbance but secondary mining causes subsidence of the overburden the effects of which tend to expand beyond the mined out area a distance approximately equal to the depth of the mined area.

(16) During the drilling of wells for oil and gas, measures should be taken to protect the salt-protection casing from internal pressures greater than the designed burst resistance plus a safety factor so as to prevent any possible entry of methane into the salt and potash interval.

(17) A proposed revision of Order R-111-A was presented at the hearing and comments were received thereon both orally at the hearing and in writing subsequent to the hearing, the record being held open for two weeks subsequent to the hearing, as announced by the Chairman.

(18) Testimony and comments both in support and in opposition to the proposed revision of the order were received at the hearing and subsequent thereto, some pointing out that the number of oil or gas wells which could be drilled under the terms of the committee report would be reduced but no comments addressed the possible waste of potash as a result of additional drilling.

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(19) One member of the work committee from the potash industry testified the proposed revision of Order R-111-A failed to prohibit drilling in the commercial ore areas and was therefore contrary to the work committee report and the Oil and Gas Act.

(20) The Commission cannot abdicate its discretion to consider applications to drill as exceptions to its rules and orders but in the interest of preventing waste of potash should deny any application to drill in commercial potash areas as recommended in the work committee report, unless a clear demonstration is made that commercial potash will not be wasted unduly as a result of the drilling of the well.

(21) Confusion can be reduced and efficiencies can be obtained by making the area covered by Order R-111 coterminous with the KPLA as determined by the BLM, and the area should be expanded and contracted by the regular pool nomenclature procedure rather than by separate hearings and further revisions of Order R-111.

(22) Expansion of the R-111 area to coincide with the KPLA will bring under the purview of this order areas where potash is either absent or non-commercial and such areas should be granted less stringent casing, cementing and plugging requirements, at the discretion of the OCD district supervisor.

(23) The proposed revision of Order R-111-A will permit the drilling of wells for oil or gas in areas previously not available for such drilling and will prevent waste of potash, and further, will serve to reduce confusion and uncertainty in the conduct of operations by both the potash and oil/gas industries, all to the benefit of the state and its citizens.

IT IS THEREFORE ORDERED THAT:

This order shall be known as The Rules and Regulations Governing the Exploration and Development of Oil and Gas in Certain Areas Herein Defined, Which Are Known To Contain Potash Reserves.

A. OBJECTIVE

The objective of these Rules and Regulations is to prevent waste, protect correlative rights, assure maximum conservation of the oil, gas and potash resources of New Mexico, and permit the economic recovery of oil, gas and potash minerals in the area hereinafter defined.

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B. THE POTASH AREA

(1) The Potash Area, as described in Exhibit A attached hereto and made a part hereof, represents the area in various parts of which potash mining operations are now in progress, or in which core tests indicate commercial potash reserves. Such area is coterminous with the Known Potash Leasing Area (KPLA) as determined by the U.S. Bureau of Land Management (BLM).

(2) The Potash Area, as described in Exhibit "A" may be revised by the Division after due notice and hearing at the regular pool nomenclature hearings, to reflect changes made by BLM in its KPLA.

C. DRILLING IN THE POTASH AREA

(1) All drilling of oil and gas wells in the Potash Area shall be subject to these Rules and Regulations.

(2) No wells shall be drilled for oil or gas at a location which, in the opinion of the Division or its duly authorized representative, would result in undue waste of potash deposits or constitute a hazard to or interfere unduly with mining of potash deposits.

No mining operations shall be conducted in the Potash Area that would, in the opinion of the Division or its duly authorized representative, constitute a hazard to oil or gas production, or that would unreasonably interfere with the orderly development and production from any oil or gas pool.

(3) Upon discovery of oil or gas in the Potash Area, the Oil Conservation Division may promulgate pool rules for the affected area after due notice and hearing in order to address conditions not fully covered by these rules and the general rules.

(4) The Division's District Supervisor may waive the requirements of Sections D and F which are more rigorous than the general rules upon satisfactory showing that a location is outside the Life of Mine Reserves (LMR) and surrounding buffer zone as defined hereinbelow and that no commercial potash resources will be unduly diminished.

(5) AM encounters with flammable gas, including hydrogen sulfide, during drilling operations shall be reported immediately to the appropriate OCD District office followed by a written report of same.

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D. DRILLING AND CASING PROGRAM

(1) For the purpose of the regulations and the drilling of wells for oil and gas, shallow and deep zones are defined as follows:

(a) The shallow zone shall include all formations above the base of the Delaware Mountain Group or, above a depth of 5,000 feet, whichever is lesser.

(b) The deep zone shall include all formations below the base of the Delaware Mountain Group or, below a depth of 5,000 feet, whichever is lesser.

(c) For the purpose of identification, the base of the Delaware Mountain Group is hereby identified as the geophysical log marker found at a depth of 7485 feet in the Richardson and Bass No. 1 Rodke well in Section 27, Township 20 South, Range 31 East, NMPM, Eddy County, New Mexico.

(2) Surface Casing String:

(a) A surface casing string of new or used oil field casing in good condition shall be set in the "Red Bed" section of the basal Rustler formation immediately above the salt section, or in the anhydrite at the top of the salt section, as determined necessary by the regulatory representative approving the drilling operations, and the cement shall be circulated to the surface.

(b) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(c) Casing and water-shut-off tests shall be made both before and after drilling the plug and below the casing seat as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of six hundred (600) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole, and if the

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hole does not remain dry for a period of one hour, corrective measures shall be applied.

(d) The above requirements for the surface casing string shall be applicable to both the shallow and deep zones.

(3) Salt Protection String:

(a) A salt protection string of new or used oil field casing in good condition shall be set not less than one hundred (100) feet nor more than six hundred (600) feet below the base of the salt section; provided that such string shall not be set below the top of the highest known oil or gas zone. With prior approval of the OCD District Supervisor the wellbore may be deviated from the vertical after completely penetrating Marker Bed No. 126 (USGS) but that section of the casing set in the deviated portion of the wellbore shall be centralized at each joint.

(b) The salt protection string shall be cemented, as follows:

(i) For wells drilled to the shallow zone, the string may be cemented with a nominal volume of cement for testing purposes only. If the exploratory test well is completed as a productive well, the string shall be re-cemented with sufficient cement to fill the annular space back of the pipe from the top of the first cementing to the surface or to the bottom of the cellar, or may be cut and pulled if the production string is cemented to the surface as provided in sub-section D (5)(a)(i) below.

(ii) For wells drilled to the deep zone, the string must be cemented with sufficient cement to fill the annular space back of the pipe from the casing seat to the surface or to the bottom of the cellar.

(c) If the cement fails to reach the surface or the bottom of the cellar, where required, the top of the cement shall be located by a temperature, gamma ray or other survey and additional cementing shall be done until the cement is brought to the point required.

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(d) The fluid used to mix with the cement shall be saturated with the salts common to the zones penetrated and with suitable proportions but not less than 1% of calcium chloride by weight of cement.

(e) Cement shall be allowed to stand a minimum of twelve (12) hours under pressure and a total of twenty-four (24) hours before drilling the plug or initiating tests.

(f) Casing tests shall be made both before and after drilling the plug and below the casing seat, as follows:

(i) If rotary tools are used, the mud shall be displaced with water and a hydraulic pressure of one thousand (1000) pounds per square inch shall be applied. If a drop of one hundred (100) pounds per square inch or more should occur within thirty (30) minutes, corrective measures shall be applied.

(ii) If cable tools are used, the mud shall be bailed from the hole and if the hole does not remain dry for a period of one hour, corrective measures shall be applied.

(g) The Division, or its duly authorized representative, may require the use of centralizers on the salt protection string when in their judgment the use of such centralizers would offer further protection to the salt section.

(h) Before drilling the plug a drilling spool installed below the bottom blowout preventer or the wellhead casing outlet shall be equipped with a rupture disc or other automatic pressure-relief device set at 80% of the API-rated burst pressure of new casing or 60% of the API-rated burst pressure of used casing. The disc or relief device should be connected to the rig choke manifold system so that any flow can be controlled away from the rig. The disc or relief device shall remain installed as long as drilling activities continue in the well until the intermediate or production casing is run and cemented.

(i) The above requirements for the salt protection string shall be applicable to both the shallow and deep zones except for sub-section D (3) (b) (i) and (ii) above.

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(4) Intermediate String:

(a) In drilling wells to the deep zone for oil or gas, the operator shall have the option of running an intermediate string of pipe, unless the Division requires an intermediate string be run.

(b) Cementing procedures and casing tests for the intermediate string shall be the same as provided under sub-sections D (3) (c), (e) and (f) for the salt protection string.

(5) Production String:

(a) A production string shall be set on top or through the oil or gas pay zone and shall be cemented as follows:

(i) For wells drilled to the shallow zone the production string shall be cemented to the surface if the salt protection string was cemented only with a nominal volume for testing purposes, in which case the salt protection string can be cut and pulled before the production string is cemented; provided, that if the salt protection string was cemented to the surface, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone.

(ii) For wells drilled to the deep zone, the production string shall be cemented with a volume adequate to protect the pay zone and the casing above such zone; provided, that if no intermediate string shall have been run and cemented to the surface, the production string shall be cemented to the surface.

(b) Cementing procedures and casing tests for the production string shall be the same as provided under sub-section D (3) (c), (e) and (f) for the salt protection string; however if high pressure oil or gas production is discovered in an area, the Division may promulgate the necessary rules to prevent the charging of the salt section.

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E. DRILLING FLUID FOR SALT SECTION

The fluid used while drilling the salt section shall consist of water, to which has been added sufficient salts of a character common to the zone penetrated to completely saturate the mixture. Other admixtures may be added to the fluid by the operator in overcoming any specific problem. This requirement is specifically intended to prevent enlarged drill holes.

F. PLUGGING AND ABANDONMENT OF WELLS

(1) All wells heretofore and hereafter drilled within the Potash Area shall be plugged in a manner and in accordance with the general rules or field rules established by the Division that will provide a solid cement plug through the salt section and any water-bearing horizon and prevent liquids or gases from entering the hole above or below the salt section.

(2) The fluid used to mix the cement shall be saturated with the salts common to the salt section penetrated and with suitable proportions but not more than three (3) percent of calcium chloride by weight of cement being considered the desired mixture whenever possible.

G. DESIGNATION OF DRILLABLE LOCATION FOR WELLS

(a) Within ninety (90) days following effective date of this Order and annually thereafter by January 31 if revised, each potash lessee, without regard to whether the lease covers State or Federal lands, shall file with the District Manager, BLM, and the State Land Office (SLO), a designation of the potash deposits considered by the potash lessee to be its life-of-mine reserves ("LMR"). For purposes of this Agreement, "life-of-mine reserves" means those potash deposits within the Potash Area reasonably believed by the potash lessee to contain potash ore in sufficient thickness and grade to be mineable using current day mining methods, equipment and technology. Information used by the potash lessee in identifying its LMR shall be filed with the BLM and SLO but will be considered privileged and confidential "trade secrets and commercial. . . .information" within the meaning of 43 C.F.R.§2.13(c) (4) (1986), Section 19-1-2.1 NMSA 1978, and not subject to public disclosure.

(b) Authorized officers of the BLM and SLO shall review the information submitted by each potash lessee

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in support of its LMR designation on their respective lands and verify upon request, that the data used by the potash lessee in establishing the boundaries of its LMR is consistent with data available to the BLM and SLO. Any disputes between the BLM and potash lessee concerning the boundary of a designated LMR shall be resolved in accordance with the Department of Interior's Hearings and Appeals Procedures, 43 C.F.R. Part 4 (1986) .

(c) A potash lessee may amend its designated LMR by filing a revised designation with the BLM and SLO accompanied by the information referred to in Section A above. Such amendments must be filed by January 31 next following the date the additional data becomes available.

(d) Authorized officers of the BLM and SLO shall commit the designated LMR of each potash lessee to a map(s) of suitable scale and thereafter revise the map(s) as necessary to reflect the latest amendments to any designated LMRs. These maps shall be considered privileged and confidential and exempt from disclosure under 43 C.F.R. Part 2 and §19-1-2.1 NMSA 1978, and will be used only for the purposes set forth in this Order.

(e) The foregoing procedure can be modified by policy changes within the BLM and State Land Office.

(2) Before commencing drilling operations for oil or gas on any lands within the Potash Area, the well operator shall prepare a map or plat showing the location of the proposed well, said map or plat to accompany each copy of the Notice of Intention to Drill. In addition to the number of copies required by the Division, the well operator shall send one copy by registered mail to each potash operator holding potash leases within a radius of one mile of the proposed well, as reflected by the plats submitted under paragraph I (2). The well operator shall furnish proof of the fact that said potash operators were notified by registered mail of his intent by attaching return receipt to the copies of the Notice of Intention to Drill and plats furnished the Division.

(3) Drilling applications on federal lands will be processed for approval by BLM. Applications on state or patented lands will be processed by the Division and, in the case of state lands, in collaboration with the SLO. The Division will first ascertain from the BLM or SLO that the location is not within the LMR area. Active mine workings and mined-out areas shall also be treated as LMR. Any application to drill in the LMR area, including buffer zones, may be approved only by mutual agreement of lessor and lessees of

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both potash and oil and gas interests. Applications to drill outside the LMR will be approved as indicated below; provided there is no protest from potash lessee within 20 days of his receipt of a copy of the notice:

(a) a shallow well shall be drilled no closer to the LMR than one-fourth (1/4) mile or 110% of the depth of the ore, whichever is greater.

(b) A deep well shall be drilled no closer than one-half (1/2) mile from the LMR.

H. INSPECTION OF DRILLING AND MINING OPERATIONS

A representative of any potash lessee within a radius of one mile from the well location may be present during drilling, cementing, casing, and plugging of any oil or gas wells to observe conformance with these regulations. Likewise, a representative of the oil and gas lessee may inspect mine workings on his lease to observe conformance with these regulations.

I. FILING OF WELL SURVEYS, MINE SURVEYS AND POTASH DEVELOPMENT PLANS

(1) Directional Surveys:

The Division may require an operator to file a certified directional survey from the surface to a point below the lowest known potash-bearing horizon on any well drilled within the Potash Area.

(2) Mine Surveys:

Within 30 days after the adoption of this order and thereafter on or before January 31st of each year, each potash operator shall furnish the Division two copies of a plat of a survey of the location of his leaseholdings and all of his open mine workings, which plat shall be available for public inspection and on a scale acceptable to the Division.

J. APPLICABILITY OF STATEWIDE RULES AND REGULATIONS

All general statewide rules and regulations of the Oil Conservation Division governing the development, operation, and production of oil and gas in the State of New

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Mexico not inconsistent or in conflict herewith, are hereby adopted and made applicable to the areas described herein.

IT IS FURTHER ORDERED THAT:

(1) Order R-111 and amendments through R-111-O are hereby rescinded.

(2) Jurisdiction of this cause is retained for the entry of such further orders as the Commission may deem necessary.

Done at Santa Fe, New Mexico on the day and year hereinabove designated.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

WILLIAM J. LEMAY, Chairman and Sec

AMERICAN OVERSIGHT

EXHIBIT "A"
CASE 9316
ORDER R-111-P

CONSOLIDATED LAND DESCRIPTION OF THE KNOWN POTASH LEASING AREA, AS OF FEBRUARY 3, 1988

EDDY COUNTY, NEW MEXICO

TOWNSHIP 18 SOUTH, RANGE 30 EAST, NMPM
Section 10: SE/4 SE/4
Section 11: S/2 SW/4
Section 13: W/2 SW/4 and SE/4 SW/4
Section 14: W/2 NE/4, NW/4 and S/2
Section 15: E/2 NE/4, SE/4 SW/4 and SE/4
Section 22: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 23: All
Section 24: N/2 NW/4, SW/4 NW/4 and NW/4 SW/4
Section 26: NE/4, N/2 NW/4 and SE/4 NW/4
Section 27: N/2 NE/4 and NE/4 NW/4

TOWNSHIP 19 SOUTH, RANGE 29 EAST, NMPM
Section 11: SE/4 SE/4
Section 12: SE/4 NE/4 and S/2
Section 13: All
Section 14: NE/4, SE/4 NW/4 and S/2
Section 15: SE/4 SE/4
Section 22: NE/4, E/2 W/2 and SE/4
Section 23: All
Section 24: All
Section 25: NW/4 NW/4
Section 26: N/2 NE/4 and NW/4
Section 27: NE/4 and E/2 NW/4

TOWNSHIP 19 SOUTH RANGE 30 EAST, NMPM
Section 2: SW/4
Section 3: W/2 SW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 4: Lots 3 and 4. SW/4 NE/4, S/2 NW/4 and S/2
Section 5: Lots 1, 2. and 3, S/2 NE/4. S/2 NW/4 and S/2
Section 6: S/2 SE/4 and NE/4 SE/4
Sections 7 to 10 inclusive
Section 11: S/2 NE/4, NW/4 NW/4 and S/2
Section 12: NE/4, S/2 NW/4 and S/2
Section 13: NE/4, W/2, N/2 SE/4 and SW/4 SE/4
Sections 14 to 18 inclusive
Section 19: Lots 1, 2, and 3, NE/4, E/2 NW/4, NE/4 SW/4, E/2 SE/4 and NW/4 SE/4
Sections 20 to 23 inclusive
Section 24: NW/4. NW/4 SW/4 and S/2 SW/4

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Section 25: NW/4 NW/4
Section 26: NE/4 NE/4, W/2 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 27: All
Section 28: All
Section 29: E/2, E/2 NW/4 and NW/4 NW/4
Section 32: E/2 and SE/4 SW/4
Section 33 to 35 inclusive
Section 36: NW/4 NW/4, S/2 NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 31 EAST. NMPM
Section 7: Lots 1, 2, and 3 and E/2 NW/4
Section 18: Lots 1, 2, and 3 and SW/4 NE/4, E/2 NW/4 and NE/4 SW/4
Section 31: Lot 4
Section 34: SE/4 SE/4
Section 35: S/2 SW/4 and SW/4 SE/4
Section 36: S/2 SE/4

LEA COUNTY. NEW MEXICO

TOWNSHIP 19 SOUTH, RANGE 32 EAST, NMPM
Section 31: Lot 4
Section 33: Lots 1 to 4 inclusive and N/2 S/2
Section 34: Lots 1 to 4 inclusive and N/2 S/2
Section 35: Lots 1 to 4 inclusive and N/2 S/2
Section 36: Lots 1 to 4 inclusive, SE/4 NE/4, NW/4 SW/4 and NE/4 SE/4

TOWNSHIP 19 SOUTH, RANGE 33 EAST, NMPM
Section 22: SE/4 NE/4, E/2 SW/4 and SE/4
Section 23: S/2 NW/4, SW/4. W/2 SE/4 and SE/4 SE/4
Section 25: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 26: All
Section 27: All
Section 28: S/2 SE/4 and NE/4 SE/4
Section 30: Lots 2 to 4 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 31: All
Section 32: NE/4, S/2 NW/4 and S/2
Sections 33 to 35 inclusive
Section 36: W/2 NE/4, SE/4 NE/4, NW/4 and S/2

TOWNSHIP 19 SOUTH, RANGE 34 EAST, NMPM
Section 31: Lots 3 and 4

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EXHIBIT "A" con'd

EDDY COUNTY. NEW MEXICO

TOWNSHIP 2() SOUTH, RANGE 29 EAST, NMPM

Section 1: SE/4 NE/4 and E/2 SE/4
Section 13: SW/4 NW/4, W/2 SW/4 and SE/4 SW/4
Section 14: NW/4 NE/4, S/2 NE/4, NW/4 and S/2
Section 15: E/2 E/2, SE/4 SW/4 and W/2 SE/4
Section 22: E/2 and E/2 NW/4
Section 23: Al I
Section 24: SW/4 NE/4, W/2, W/2 SE/4 and SE/4 SE/4
Section 25: N/2, SW/4, W/2 SE/4 and NE/4 SE/4
Section 26: Al I
Section 27: E/2
Section 34: NE/4
Section 35: N/2
Section 36: W/2 NE/4 and NW/4

TOWNSHIP 20 SOUTH, RANGE 30 EAST, NMPM

Sections 1 to 4 inclusive
Section 5: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 6 Lots 5, 6, and 7, S/2 NE/4, E/2 SW/4 and SE/4
Section 7 Lots 1 and 2. E/2 and E/2 NW/4
Sections 8 to 17 inclusive
Section 18 E/2
Section 19 E/2 and SE/4 SW/4
Sections 20 to 29 inclusive
Section 30: Lots 1 to 3 inclusive, E/2 and E/2 W/2
Section 31: NE/4 and E/2 SE/4
Sections 32 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 31 EAST. NMPM

Section 1: Lots 1 to 3 inclusive, S/2 N/2 and S/2
Section 2: Al I
Section 3: Lots 1 and 2, S/2 NE/4 and SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: S/2 N/2 and S/2
Section 9: S/2 NW/4, SW/4, W/2 SE/4 and SE/4 SE/4
Section 10: E/2 and SW/4
Sections 11 to 36 inclusive

AMERICAN OVERSIGHT

EXHIBIT "A" con'd

LEA COUNTY, NEW MEXICO

TOWNSHIP 20 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 4 inclusive
Section 5: S/2 SE/4
Section 6: Lots 4 to 7 inclusive, SE/4 NW/4, E/2 SW/4 and SW/4 SE/4
Sections 7 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 33 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 20 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 3 to 7 inclusive, SE/4 NW/4, E/2 SW/4, W/2 SE/4 and SE/4 SE/4
Section 7: All
Section 8: SW/4, S/2 NW/4, W/2 SE/4 and SE/4 SE/4
Section 16: W/2 NW/4, SE/4 NW/4, SW/4 and S/2 SE/4
Sections 17 to 21 inclusive
Section 22: N/2 NW/4, SW/4 NW/4, SW/4, W/2 SE/4, and SE/4 SE/4
Section 26: SW/4, W/2 SE/4 and SE/4 SE/4
Sections 27 to 35 inclusive
Section 36: SW/4 NW/4 and W/2 SW/4

EDDY COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 3 inclusive
Section 4: Lots 1 through 16, NE/4 SW/4 and SE/4
Section 5: Lot 1
Section 10: N/2 NE/4, SE/4 NE/4 and SE/4 SE/4
Sections 11 to 14 inclusive
Section 15: E/2 NE/4 and NE/4 SE/4
Section 23: N/2 NE/4
Section 24: E/2, N/2 NW/4 and SE/4 NW/4
Section 25: NE/4 NE/4 and S/2 SE/4
Section 35: Lots 2 to 4 inclusive, S/2 NE/4, NE/4 SW/4 and N/2 SE/4
Section 36: Lots 1 to 4 inclusive, NE/4, E/2 NW/4 and N/2 S/2

TOWNSHIP 21 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

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EXHIBIT "A" con'd

TOWNSHIP 21 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 36 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 21 SOUTH, RANGE 32 EAST, NMPM
Sections 1 to 27 inclusive
Section 28: N/2 and N/2 S/2
Sections 29 to 31 inclusive
Section 32: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 34: N/2 NE/4
Section 35: N/2 N/2
Section 36: E/2. N/2 NW/4, SE/4 NW/4 and NE/4 SW/4

TOWNSHIP 21 SOUTH, RANGE 33 EAST, NMPM
Section 1: Lots 2 to 7 inclusive, Lots 10 to 14 inclusive. N/2 SW/4 and SW/4 SW/4
Sections 2 to 11 inclusive
Section 12: NW/4 NW/4 and SW/4 SW/4
Section 13: N/2 NW/4, S/2 N/2 and S/2
Sections 14 to 24 inclusive
Section 25: N/2. SW/4 and W/2 SE/4
Sections 26 to 30 inclusive
Section 31: Lots 1 to 4 inclusive, NE/4, E/2 W/2, N/2 SE/4 and SW/4 SE/4
Section 32: N/2 and NW/4 SW/4
Section 33: N/2
Section 34: NE/4, N/2 NW/4 and E/2 SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and S/2

TOWNSHIP 21 SOUTH, RANGE 34 EAST, NMPM
Section 17: W/2
Section 18: All
Section 19: Lots 1 to 4 inclusive, NE/4, E/2 W/2. N/2 SE/4 and SW/4 SE/4
Section 20: NW/4 NW/4
Section 30: Lots 1 and 2 and NE/4 NW/4
Section 31: Lots 3 and 4

EDDY COUNTY. NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 28 EAST, NMPM
Section 36: E/2 E/2

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EXHIBIT "A" con'd

TOWNSHIP 22 SOUTH, RANGE 29 EAST, NMPM
Sections 1 and 2 inclusive
Section 3 SE/4 SW/4 and SE/4
Section 9 S/2 NE/4 and S/2
Sections 10 to 16 inclusive
Section 17 S/2 SE/4
Section 19 SE/4 NE/4 and E/2 SE/4
Sections 20 to 28 inclusive
Section 29 N/2 N/2, S/2 NE/4 and SE/4
Section 30 NE/4 NE/4
Section 31 Lots 1 to 4 inclusive, S/2 NE/4, E/2 W/2 and SE/4
Sections 32 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 36 inclusive

TOWNSHIP 22 SOUTH, RANGE 31 EAST, NMPM
Sections 1 to 11 inclusive
Section 12: NW/4 NE/4, NW/4 and NW/4 SW/4
Section 13: S/2 NW/4 and SW/4
Sections 14 to 23 inclusive
Section 24: W/2
Section 25: NW/4
Section 26: NE/4 and N/2 NW/4
Sections 27 to 34 inclusive

LEA COUNTY, NEW MEXICO

TOWNSHIP 22 SOUTH, RANGE 32 EAST, NMPM
Section 1: Lot 1
Section 6: Lots 2 to 7 inclusive and SE/4 NW/4

TOWNSHIP 22 SOUTH, RANGE 33 EAST. NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 2: All
Section 3: Lot 1, SE/4 NE/4 and SE/4
Section 6: Lot 4
Section 10: NE/4
Section 11: NW/4 NE/4 and NW/4

TOWNSHIP 21 SOUTH, RANGE 34 EAST, NMPM
Section 6: Lots 4 to 6 inclusive

AMERICAN OVERSIGHT

EXHIBIT "A" con'd

EDDY COUNTY, NEW MEXICO

TOWNSHIP 23 SOUTH, RANGE 28 EAST, NMPM
Section 1: Lot 1

TOWNSHIP 23 SOUTH, RANGE 29 EAST, NMPM
Sections 1 to 5 inclusive
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, E/2 SW/4 and SE/4
Section 7: NE/4 and NE/4 NW/4
Section 8: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Sections 9 to 16 inclusive
Section 17: NE/4 and E/2 SE/4
Sections 21 to 23 inclusive
Section 24: N/2, SW/4 and N/2 SE/4
Section 25: W/2 NW/4 and NW/4 SW/4
Section 26: All
Section 27: All
Section 28: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 33: N/2 NE/4 and NE/4 NW/4
Section 34: NE/4, E/2 NW/4, NW/4 NW/4, NE/4 SW/4 and SE/4
Section 35: All
Section 36: W/2 NE/4, NW/4 and N/2 SW/4

TOWNSHIP 23 SOUTH, RANGE 30 EAST, NMPM
Sections 1 to 18 inclusive
Section 19 N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 20 All
Section 21 All
Section 22 N/2, S/2 SW/4, N/2 S/2 and SE/4 SE/4
Sections 23 to 25 inclusive
Section 26 E/2, SE/4 NW/4 and SW/4
Section 27 N/2 NW/4, SW/4 NW/4, SE/4 SW/4, S/2 SE/4 and NE/4 SE/4
Section 28 N/2 and SW/4
Section 29 N/2 and SE/4
Section 30 N/2 NE/4
Section 32 N/2 NE/4
Section 33 SE/4 NE/4, N/2 NW/4, NE/4 SE/4 and S/2 SE/4
Sections 34 to 36 inclusive

TOWNSHIP 23 SOUTH, RANGE 31 EAST, NMPM
Section 2: Lot 4, SW/4 NW/4 and W/2 SE/4
Sections 3 to 7 inclusive
Section 8: NE/4 NE/4, W/2 NE/4 and W/2
Section 9: N/2 N/2
Section 10: NW/4 NW/4 and SE/4 SE/4
Section 11: S/2 NE/4, S/2 SW/4 and SE/4

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EXHIBIT "A" con'd

Section 12: SW/4 NW/4 and SW/4
Section 13: SW/4 NE/4, W/2 and W/2 SE/4
Section 14: All
Section 15: E/2, SE/4 NW/4 and SW/4
Section 16: SW/4 and S/2 SE/4
Section 17: NW/4 and S/2
Sections 18 to 23 inclusive
Section 24: W/2 NE/4 and W/2
Section 25: W/2 NE/4, NW/4, N/2 SW/4 and NW/4 SE/4
Sections 26 to 34 inclusive
Section 35: N/2 NW/4 and SW/4 NW/4

TOWNSHIP 24 SOUTH, RANGE 29 EAST, NMPM
Section 2: Lots 2 to 4 inclusive
Section 3: Lot 1

TOWNSHIP 24 SOUTH, RANGE 30 EAST, NMPM
Section 1: Lots 1 to 4 inclusive, S/2 N/2, SW/4 and NW/4 SE/4
Section 2: All
Section 3: All
Section 4: Lots 1 and 2, S/2 NE/4, SE/4 NW/4, SW/4 SW/4. E/2 SW/4 and SE/4
Section 9: N/2, N/2 SW/4, SE/4 SW/4 and SE/4
Section 10: All
Section 11: All
Section 12: W/2 NW/4 and NW/4 SW/4
Section 14: W/2 NE/4 and NW/4
Section 15: NE/4 and N/2 NW/4

TOWNSHIP 24 SOUTH, RANGE 31 EAST, NMPM
Section 3: Lots 2 to 4 inclusive, SW/4 NE/4, S/2 NW/4, SW/4 and W/2 SE/4
Section 4: All
Section 5: Lots 1 to 4 inclusive, S/2 N/2, N/2 S/2 and SE/4 SE/4
Section 6: Lots 1 to 6 inclusive, S/2 NE/4, SE/4 NW/4, NE/4 SW/4 and N/2 SE/4
Section 9: E/2 and NW/4
Section 10: W/2 NE/4 and W/2
Section 35: Lots 1 to 4 inclusive, S/2 N/2 and N/2 S/2
Section 36: Lots 1 and 2, SW/4 NW/4 and N/2 SW/4

TOWNSHIP 25 SOUTH, RANGE 31 EAST, NMPM
Section 1: Lots 3 and 4 and S/2 NW/4
Section 2: Lots 1 to 4 inclusive and S/2 N/2

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PadillaLawNM@outlook.com

From: Mark Hajdik <MHajdik@colgateenergy.com>
Sent: Wednesday, June 2, 2021 9:59 AM
To: Ernest Padilla
Subject: FW: [EXTERNAL] Potash Boundary Ques

Mark Hajdik | Colgate Energy | Senior Landman
300 N. Marienfeld St. | Suite 1000 | Midland, TX 79701
O: (432) 257-3886 | C: (832) 904-6006
Email: mhajdik@colgateenergy.com

From: Rutley, James S <JRutley@blm.gov>
Sent: Wednesday, June 2, 2021 8:52 AM
To: Mark Hajdik <MHajdik@colgateenergy.com>
Subject: Re: [EXTERNAL] Potash Boundary Ques

***** Attention: This is an external email, use caution. *****
Good Morning Mark,

If your surface or bottom hole traverses the orange line (State's Potash Boundary), we require development area notification. In your case here, a development area notice is not required.

Best,

Jim

From: Mark Hajdik <MHajdik@colgateenergy.com>
Sent: Wednesday, June 2, 2021 7:42 AM
To: Rutley, James S <JRutley@blm.gov>
Subject: [EXTERNAL] Potash Boundary Ques



This email has been received from outside of DOI - Use caution before clicking on links, opening attachments, or responding.

Jim, could you provide me a quick refresher on the difference between the red and the orange boundary lines. For example if I have development that crosses the red line but does not traverse the orange line will I need a Dev Area?

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From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, April 05, 2022 5:37 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: Fwd: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program
Attachment(s): "NMOCD Comments on - State-initial-grant-guidance-bil FINAL.docx"

Amy- Attached/below are our comments.

Get Outlook for iOS

From: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Sent: Wednesday, March 30, 2022 6:40 PM
To: orphanedwells, DOI <orphanedwells@ios.doi.gov>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program

To Whom It May Concern:

Enclosed please find the New Mexico Energy, Minerals and Natural Resources Department (EMNRD), Oil Conservation Division's (OCD's) comments on the Department guidance on the implementation of the Bipartisan Infrastructure Law plugging program Initial Grant. OCD is responsible for regulating oil and gas production statewide under the New Mexico Oil and Gas Act. Since 1935, the Oil and Gas Act has required that oil and gas production is undertaken responsibly to protect oil reserves, the rights of mineral owners, and the environment. OCD oversees more than 58,000 producing wells, a number that has grown rapidly since 2015 with the historic drilling boom New Mexico and the United States has seen because of advances in horizontal well drilling. In 2021, New Mexico became the second largest oil producer in the U.S.

Under the Oil and Gas Act inactive wells must be plugged to protect oil and gas reserves, mineral rights and New Mexico's unique environment. While many of those wells are plugged by oil and gas operators, when companies become insolvent, the state must step in. OCD does this through its established plugging program that currently plugs an average of 50 wells per year based on available resources. To implement this program, OCD hires local oil and gas service companies to perform the work, directly injecting money into the local economy. With additional resources OCD's plugging program can be scaled. The additional resources provided by the BIL will help OCD scale this program and we offer the attached comments to help ensure successful implementation that respects each states' unique circumstances.

We are open to discussing this issue further but believe it is critically important that plugging responsibility be properly allocated between the state, federal and tribal programs under the Act, please contact Adrienne Sandoval, Oil Conservation Division Director at adrienne.sandoval@state.nm.us, or Dylan Fuge, General Counsel, NM Energy Minerals and Natural Resources Department, at dylan.fuge@state.nm.us.

Regards,

Dylan M. Fuge
General Counsel | Energy, Minerals & Natural Resources Department
1220 South St. Francis Drive | Santa Fe, NM 87505
P: (505) 490-2551 (cell)
E: dylan.fuge@state.nm.us
Licensed in NM, CT, D.C., and WA

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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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NM-EMNRD-22-0512-B-000865

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private surface and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

Commented [A1]: OCD joins in IOGCCC's comments on this provision that additional guidance/training would be helpful on funding draw down.

Commented [A2]: As OCD had previously noted, we did not include such wells in the numbers reported in our NOI. Does the Department have plans to collect updated data given this clarification? Since more than half of NM's overall well count is federal, this delta could be significant.

Commented [A3]: OCD already successfully plugs federal wells consistent with federal standards so this obligation is workable. However, often times plugging federal wells is delayed by the extensive process BLM uses to identify orphan wells. OCD believes its formal administrative hearing process against the most recent registered operator is sufficient to identify inactive wells that have been orphaned and properly subject to a state plugging order. If BLM, wants to incentivize states to plug split estate wells it should rely on state identification processes. ¶
¶
A related question arises though in split estate lands, because the minerals are federal BLM is the bond holder. If a state were to plug on such lands there would need to be a mechanisms for any existing federal bonds to be forfeit by the BLM with proceeds transferred to the state.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants for any of the following purposes~~to~~:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

Commented [A4]: OCD recommends that the definition track verbatim the term as defined in the BIL. The language here is close, but do not believe there needs to be any deviation.

Commented [A5]: OCD joins in IOGCCC's general comments on this section and would appreciate clarification on application of funds to pre-award costs.

Commented [A6]: Proposed language is from BIL.

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

Commented [A7]: OCD is not certain this description adequately describes potential scenarios given the diversity of Indian land ownership type (e.g., allotted, restricted fee). We would encourage a double check. ¶
¶
Also, we assume non-trust lands are just private lands not withstanding the highlighted language or the fact they may be owned by a tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Commented [A8]: OCD recognizes the importance of prioritizing wells sites to address those presenting greater risks. ¶
¶
We want to encourage DOI to not be overly prescriptive in this space as each state has unique procedural requirements we must follow. ¶
¶
For example, in NM our process requires us to take an operator through a formal administrative enforcement type hearing to obtain a plugging order.

Commented [A9]: See prior comment.

Commented [A10]: OCD recognizes the critical importance of addressing methane emissions in the oil patch, as evidenced by our nation leading waste rules. However, in this context we encourage DOI to maximize flexibility - e.g., rather than well specific measurements in each instance can we use emissions factors or representative measurements from other wells in the same field. Well specific measurements may slow down plugging pace . We also urge caution in requiring reliance on draft protocols that have not yet been robustly deployed at scale. Such methodologies may not work in all environments and tend to favor larger plugging operators over smaller ones.

Commented [A11]: OCD encourages DOI to modify this requirement to measure and track ground and surface water contamination to where necessary/appropriate. OCD investigates ground and surface when and where circumstances dictate (e.g., evidence of releases or other indicia of contamination). Requiring it in all instances potentially risks unnecessary monitoring well construction, which increases disturbances and drives up plugging costs.

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;

(k) How the State will use funding to locate currently undocumented orphaned wells;

(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;

(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;

(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;

(r) A work schedule covering the period of performance of the Initial grant; and

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

Commented [A12]: See general comment above about prioritization. States are obligated to follow their existing statutes rules and regulations, which will facilitate public participation in various ways/times in the plugging process. A changed or standardized approach may require states to undertake rulemakings or seek legislative updates which can be time consuming and may inhibit the funding from being spent within the year time frame.

Commented [A13]: OCD recommends rephrasing this to state "If the state will use funding to locate currently undocumented wells, how will it be used?"

Commented [A14]: OCD supports this objective, but notes that it may often be outside the jurisdiction of entities charged with plugging authority under state law. OCD intends to partner with other state agencies to support such programs to the extent permitted by law.

Commented [A15]: See prior comment, also to some extent this provision overlaps with (m) above, consider consolidating, (m), (n) and (o).

Commented [A16]: See prior comment regarding prioritization. NM recognizes the importance of addressing these sites in underserved communities, but this is one of many factors we have to consider as part of our process.

Commented [A17]: OCD is requests clarity on what is being requested by this line item. A work schedule may vary depending on circumstances that are outside of OCD's control, we request this be a "proposed" work schedule that will provide flexibility when and if changes need to be made.

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D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

Commented [A18]: See comments above re: methane measurement and ground water contamination.

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

Commented [A19]: As noted above, we encourage DOI to adopt flexibility with respect to this measurement guidance. There are implementation risks with pointing to a methodology that has not yet be finalized or deployed at scale. ¶
¶
Second, the more prescriptive the methodology required, the greater the risk you disqualify plugging crews from smaller local companies. ¶
¶
OCD encourages other models, e.g., emission factors/assumptions or allowing measurements from one well in a field being plugged to be extrapolated to other wells in the same field. ¶
¶
For example, OCD is currently in the middle of a plugging a large field where an operator discontinued operations in 1984. The field follows a similar area/basin and the orphaned wells are all of a similar vintage a design. Rather then measuring emissions at every single well, it would seem reasonable to measure a subset to come up with a reasonable estimate that can be utilized for the remainder of the wells in the field.

Commented [A20]: As demonstrated by our existing work plugging wells on federal lands, OCD existing program can meet these standards. DOI should affirmatively stated that existing programs with plugging standards are presumed to suffice and should not require verbatim compliance with BLM standards/program, except when a state is plugging a well subject to federal jurisdiction on the Fed's behalf.

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Commented [A21]: We echo IOGCC's comments that these interactions should be coordinated by DOI.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

Commented [A22]: OCD supports the need to collect data to show success and accountability within the program. However, we note, that particularly in the first couple quarters as states ramp up their programs, that there may be less well plugging and remediation work, with numbers increasing as time goes on. NM is working now to scale its program, but that work, particularly contract updates takes time.

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Commented [A23]: While some large multi-national plugging contractors may have the ability to provide this granular information, many smaller, local plugging companies likely will not. Invoicing information is typically aggregated by the number of hours total not broken down by specific employee and NAICS code. This granular information request may disadvantage local companies who hire workers in local communities. OCD recommends requesting total hours worked per site as an aggregate number. ¶
¶
Alternatively, we could collect periodic information from our plugging contract (e.g., annual updates on employee count, plugging crew composition, and hours spent on a typical project).

Commented [A24]: This data element may be challenging for States to obtain as we don't have specific population data of surrounding structures. We can more readily identify structures within the immediate area or identify if the well is in city/town. OCD recommends that this be a more general question such are there occupiable structures in the surrounds half mile radius.

Commented [A25]: Similar to comment above, OCD recommends that this be a yes or no check box.

Commented [A26]: OCD suggests that there be a caveat to this request, such as "if surface water contamination was identified, then was surface waste contamination remediated"

Commented [A27]: Same comments as on surface water with the additional highlight that groundwater contamination could take years to remediate so a response of "in progress" should be allowed.

Commented [A28]: OCD encourages that the practices for attainment of regrowth should follow either state land provisions or recommendations by land owners. Holding a site for a period of years prior to releasing it may hold up future leasing of the site by a state land agency or private land owner.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

Commented [A29]: OCD recognizes the importance of importance of having access to sites where federal funds are being used. However, OCD suggests that this requirement be revised to make clear that in all instances site visits be coordinated in conjunction with state staff prior to visiting. This is particularly true on private lands. While state personnel have the right to enter and inspect oil and gas sites on private land, we work though private land owner as necessary to obtain the necessary authorizations. Those access rights are not automatically extended to any other entity affiliated with the state.

Commented [A30]: See comment above on site prioritization and disadvantaged communities.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

Commented [A31]: OCD supports the buy American Provision in the BIL. However given supply chain issues, it would be helpful to get some guidance on what constitutes manufactured products and construction materials.¶
¶
It would also be helpful if DOI kept track of waivers currently available for any products that may be necessary during the plugging process. ¶
¶
For example, with supply chain problems over the last year, plugging contractors have found it increasingly challenging to find cement. While what is available may be manufactured in the U.S., with limited options it also may not be. Without these critical materials plugging and remediation work cannot be undertaken. It is critical states have easy access to the latest information.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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From: Klapkowski, Kurt E <kklapkowsk@pa.gov>
Sent: Wednesday, March 30, 2022 10:16 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Fwd: Pennsylvania Department of Environmental Protection's Comments on "FY 2022 State Initial Grant Guidance"
Attachment(s): "3 30 PA DEP Comments on IIJA Initial Grant Guidance.pdf"

FYI - please see the attached comments on the draft Grant Guidance sent from Pennsylvania to Interior today. I have not received any confirmation of receipt as of yet.

Thanks,

Kurt Klapkowski | Acting Deputy Secretary
He/him/his
Office of Oil and Gas Management
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8765 | Harrisburg, PA 17101
Phone: 717.783.9893 | Fax: 717.772.2291
Rewriting Pennsylvania's Legacy

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From: Klapkowski, Kurt E
Sent: Wednesday, March 30, 2022 5:13:21 PM
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
Cc: Wallace, Todd <twallace@pa.gov>; Cole, Kate <kacole@pa.gov>; Wise, Harry (hwise@pa.gov) <hwise@pa.gov>; Magon, Crystal <cmagon@pa.gov>; Davis, Elizabeth <elidavis@pa.gov>
Subject: Pennsylvania Department of Environmental Protection's Comments on "FY 2022 State Initial Grant Guidance"

Attached please find the Commonwealth of Pennsylvania's comments on the Department of the Interior's draft "FY 2022 State Initial Grant Guidance." We appreciate the opportunity to provide these comments and look forward to working with Interior on orphan well plugging issues in the future. If you have any difficulty accessing this document or questions regarding any of the content of the comments, please let me know.

Thanks,

Kurt Klapkowski | Acting Deputy Secretary
He/him/his
Office of Oil and Gas Management
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8765 | Harrisburg, PA 17101
Phone: 717.783.9893 | Fax: 717.772.2291
Rewriting Pennsylvania's Legacy

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pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 30, 2022

U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: FY 2022 State Initial Grant Guidance – Pennsylvania DEP Feedback

To Whom It May Concern:

The Pennsylvania Department of Environmental Protection (DEP) submits the following comments in response to the Department of Interior's (Interior) request for feedback on the draft FY 2022 State Initial Grant Guidance. We appreciate the opportunity to provide comments on Interior's guidance for implementing this critical program.

Introduction

The introduction states that "The document indicates what information is *required* in applications for an Initial grant and for expenditure of the grant funding. It also includes a number *strongly recommended* best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding."

Pennsylvania notes and supports comments indicating that the Infrastructure Investment and Jobs Act (IIJA) appears to grant states flexibility in how to best operate their abandoned and orphan (AO) well plugging programs. We will likely implement many, if not all, of the recommended best practices outlined in this document, but we believe that the discretion to do so is explicit in the IIJA and should be retained in any Grant guidance developed by Interior, including this Initial Grant guidance. This comment should be considered to be repeated wherever the issue of requirements versus recommended practices is found.

Definitions

1. For the definition of "administrative costs":
    - Although we appreciate the concepts behind this definition, Pennsylvania requests more clarification as to which costs are considered "project" costs and which costs are considered "administrative" costs. This is a critical concern as states are limited to 10% of Grants for "administrative" costs and so will need to track these expenditures closely. Some examples might be helpful in understating the distinction that Interior is attempting to create between the two types of costs. We would suggest that the Abandoned Mine Reclamation program has significant experience in addressing these issues and that experience could prove valuable in the AO well plugging context.
    - Section 40601(b)(3)(A)(II)(aa) of the IIJA requires a State to certify it is a member of the Interstate Oil and Gas Compact Commission (IOGCC) as a condition of eligibility to receive up to $25 million in Initial Grant funding. Is the annual IOGCC membership due reimbursable to the State as an "administrative cost" under the Initial

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NM-EMNRD-22-0512-B-000881

Grant?

- As a separate matter, we would appreciate clarification as to whether the 10% administrative costs side of the Initial Grant also must be obligated within a year, and if so, what constitutes "obligation" in that context? For example, say Pennsylvania hires a geologist to work on program development issues six months after the "date of receipt" of the grant. Can that money be considered "obligated" because the state must continue to pay their salary? Or will only the six months of service before the one-year cutoff be counted?

2. For the definition of "Date of receipt of funds": Pennsylvania generally supports this definition and appreciates the operational flexibility it provides to states. It might be helpful if Interior could provide additional examples of how this process would work in practice as this will be the first time most state oil and gas programs will be using this process.

3. For the definitions of "Federal Land" and Federal Wells":
   - Pennsylvania cannot emphasize strongly enough that the approach outlined in these definitions for AO wells on federal land will leave a very significant portion of AO wells in the eastern United States without well plugging resources. We believe that if the mineral estate is privately held, but the surface estate is owned by the federal government, it should be included in the **state** program. As an example, we have identified and completed due diligence on over 1,200 AO wells in the Allegheny National Forest in Pennsylvania. In the overwhelming majority of those AO wells, the mineral estate has been severed from the surface estate and remains privately held. We did not include those wells in our Formula Grant Notice of Intent as we were led to believe that this category of AO wells would be addressed through the federal program. Because the U.S. Department of Agriculture manages the Allegheny National Forest, it seems that the intent of the IIJA was to include AO wells on such land as eligible for funding. It now does not appear that this is the case, and so those wells will be addressed by neither the state program nor the federal program. These definitions should be amended to address this situation and allow for inclusion of such wells in the state AO well plugging program. Alternatively, the AO wells where the federal government owns the surface and the mineral estate is privately held should be included in the federal IIJA well plugging program.
   - On a second note, Pennsylvania believes strongly that our state restoration and plugging standards should apply regardless of the ownership of the surface estate. We have more than three decades experience plugging AO wells and a long history of requiring site restoration after drilling is complete and after plugging is complete. Our program reflects this unique experience addressing such issues in Pennsylvania. This comment should be considered to be repeated wherever the issue of state versus federal standards is found.

4. For the definition of "Orphaned well": Pennsylvania believes strongly that the state statute's definitions for "abandoned well" and "orphan well" should take precedence, regardless of the ownership of the surface estate. For example, the Commonwealth has the *authority* to plug abandoned wells without first determining the operator status, which this definition appears to require before a well can be considered "orphaned." This concern is magnified where the AO wells on federal surface estates will not be addressed under the federal AO well plugging program. Pennsylvania also recommends that (2) be amended to include different

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terminology using other terms by changing "another term" to "other terms".

5. For the definition of "Unobligated amount": Pennsylvania suggests building a "good faith" provision into this definition or in the substantive sections of the guidance where this term is used. There may be events that are beyond the control of a state where amount may remain or become "unobligated." For example, there are times where an AO well plugging job is not as complex or difficult as it was believed to be when bids were received, and money that was "obligated" is released to the state. Would those funds need to be returned to Interior? Similarly, is "definite commitment" limited to goods and services received, or can those items be ordered before the one year but not yet delivered? Finally, what if a state declines payment because the contractor failed to perform or violated the terms of the contract? Would those funds need to be returned to Interior? Also, please see our earlier comment about "administrative costs," above. Some guidance should be provided regarding the "obligation" of those costs in relation to the one-year deadline this definition.

Permissible Uses of Initial Grant Funds

Under Section A, in the seventh bullet, we would appreciate some clarification about the meaning of "restore native species habitat." In Pennsylvania, although we require well site restoration, we do not specify the use of native species or the end result of the restoration beyond site vegetation and stabilization. In some cases, the surface landowner may have specific concerns about restoration (for example, for agriculture rather than woodlands) or may request that certain areas not be restored (and therefore subject to our post-construction stormwater requirements). As an alternative to clarification, Pennsylvania recommends that Interior adds a sentence that defers to the state's restoration and permanent stabilization requirements.

For Section A, in the last bullet, Pennsylvania is requesting additional clarification on what must be included in the Work Agreement. For example, if methane emission quantification is not identified in the Agreement, but we discovered a leaking AO well, would we be barred from using IIJA funding to quantify those emissions? We believed the states retained a fair measure of flexibility when deciding how to utilize these Grant funds and having to identify each possible use of the funding up front may limit that discretion.

Under Section B, Pennsylvania is very concerned about this provision not reflecting the reality of hydrocarbon development in the eastern United States. Please see our comments about relating to the definitions of "federal land" and "federal well" above. This gap in AO well plugging must be addressed. DEP's proposed language instead is: "*If no federal well drilling permit – State can use IIJA funds to plug AO wells on federal surface estates in cooperation with Federal Land Manager*."

For Section D, Pennsylvania would appreciate more guidance on what it means to "issue new contracts, amend existing contracts, or issue grants…" within 90 days after date of receipt. Our concern is that we are in a situation where getting contracts out the door for bidding within 90 days of receipt of funds will be very difficult. Are these other activities included in the 90 days or not? DEP proposes the following language be incorporated here: "*Issue new contracts for work identified under Section A, above, but not later than 90 days from receiving funds…*"

For Section E, please see our earlier comment about "unobligated funds". We need some allowances identified to take anomalies into account for guidance for states. We suggest that there be a process in which states might demonstrate a good-faith effort that they attempted to meet the one-year

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obligation and Interior approves the retention and use of the Grant funds by the state. Some additional questions related to this provision include:

1. What does the state do if a contract is completed below the bid amount?
2. If 10% of the Grant for "administrative costs" is calculated at $2.5 million, does a failure to spend 90% on projects reduce that 10% budgeted for "administrative costs"?
3. What if, because of supplier issues, an ordered truck or other equipment could not be delivered within the one-year timeline, and the payment is not due until after the deadline?
4. For personnel costs, what if staff is hired to implement the IIJA but they leave before the one-year deadline so are not "obligating" the full intended/projected amount by the deadline?

Instructions for Initial Grant Applications

In general, Pennsylvania appreciates the acknowledgement of the submission of the State Certification/Application.

Under Section B, number ii "Detailed Budget Proposal/Justification", Pennsylvania believes that it will require significant work to prepare this Proposal/Justification within the timeframes remaining before May 13, 2022, but will attempt to provide this information to the best of our ability. We do note that some of this information will likely be speculative given the short time available to prepare this documentation, as well as the potential for decisions concerning allowable expenses (for example, whether to attempt to quantify methane emissions, and if so, whether to do so via contract or staff development and equipment purchases) to require more time to be made than is allowed under the IIJA. We would request that Interior use its discretion to approve state applications for the Initial Grant even if some of these elements may not be developed to the degree that later Grant applications will be.

Under Section C, please see our comment regarding requirements versus recommendations above. This section discusses recommendations, but it appears that if a state chooses to implement these recommendations, then they become requirements. Additionally, we have the following comments and questions pertaining to the following components:

1. Under (b), we are not certain what "witnessing" requirements is intended to convey and request clarification.
2. Under (c), we are not certain what "resource and financial risk" is intended to convey and request clarification.
3. Under (f), Pennsylvania believes that significant clarification is needed on the question of methane emission quantification. There do not appear to be standardized methodologies in place today and there may even be competing claims to be "the preferred methodology." Please provide clarification about what is expected should states choose to have this element in their AO well plugging program, as well as how the federal AO well plugging program is implementing this provision. Also, we have had several inquiries concerning the ownership of "carbon credits" for plugging AO wells and eliminating methane emissions. Some operators have even indicated that they will plug wells *at no cost to the state* if we are willing to assign the rights to claim such credits to the plugging operator. Is there any guidance that Interior can provide states on how these credit systems work and who has the right to claim such credits? We have also received indications that plugging work using government funds will not be eligible for carbon emission credits.

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4. Under (i), due to resource limitations, DEP has historically handled prioritization internally to the agency and has not typically engaged in a public process. Guidance on what Interior believes are best practices in this area as well as any expectations Interior has for states on this issue would be appreciated.
5. For (m), (n), and (o), again, due to resource limitations, DEP has not historically engaged in the practices outlined in subsections (m), (n) and (o). Guidance on what Interior believes are best practices in this area as well as any expectations Interior has for states on this issue would be appreciated.
6. For (r), Pennsylvania would appreciate clarification on what best practices are applicable here. Is this a narrative that we provide or is it more specific with identifiable dates/times/next steps, etc.?

For Section D, please see comments on "administrative costs" and "unobligated funds," above.

Recommended Standards for Measurement, Plugging and Remediation

Please see our comment regarding requirements versus recommendations, above. This section discusses recommendations, but it appears that if a state chooses to implement these recommendations, then they become requirements.

For Section A, number (i), it would be useful to have specific direction regarding the measurements that Interior is asking the states to provide or a statement that Interior will accept the state's chosen method of measurement, units, etc. We also note that the language in the next-to-last sentence appears to address our earlier comment regarding site restoration and "native habitat." This formulation seems to be more appropriate given our state's regulatory requirements.

For Section A, number (ii), please see comments above regarding quantification of methane emissions and the lack of a recognized national standard methodology.

For Section B, number (ii), please see comment above requesting clarification of the intention behind "well plug witnessing."

Federal and Tribal Coordination

These provisions appear to require states to do any coordination with federal partners in their state. It would be useful for Interior to help serve as a go-between or identify points of contact within the federal land management agencies and minerals managers. Unless specifically obligated by the IIJA, the collection and reporting of data as required by an authorized "cost-sharing, Good Neighbor, or other arrangement with the Federal government" should be limited to the terms and conditions of such authorized agreement.

Reporting Requirements

Pennsylvania believed that reporting under the IIJA Initial Grant would be limited to the "15-month" report included as a requirement in the IIJA. However, these reporting requirements have been expanded to include quarterly reports, annual personal property reports, etc. It is our understanding that Performance Reports are based on what level of detail that Interior will be requesting. Pennsylvania requests additional detailed guidance as to what Interior is looking for from the states, because we will need to set up codes to track the required information.

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Although Pennsylvania believes it is reasonable to prepare and submit a Quarterly Report to Interior, the Quarterly Report should not include all reporting components of the "15-month" report that is specified in the IIJA. The Quarterly Reports should be limited to a subset of information and data that provides a summary of the progress made during each quarter to achieve the goals of the Initial Grant.

2 C.F.R. § 200.328 states the "…federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information." Does this mean that the OMB must approve the information that is required to be reported in the Quarterly reports?

For Section C "Final Financial and Performance Reports", Pennsylvania is requesting clarification from Interior as to the "period of performance end date," so we can plan to provide this report.

For Section D "15-month report", Pennsylvania suggests that Interior use the defined phrase "date of receipt of funds" in this section to avoid confusion.

For Section E, number 1, Pennsylvania has not historically collected the information requested in sections E.1.(c)-(d) and would appreciate guidance from Interior regarding these data elements and how they can be derived.

For Section E, number 2, Pennsylvania is requesting clarification on what items in this section would be considered "project" costs and which would be considered "administrative" costs. For example, the IIJA allows states to spend Grant funds to "make information regarding the use of funds received under this subsection available on a public website," and to "measure and track emissions of methane and other gases associated with orphaned wells; and contamination of groundwater or surface water associated with orphaned wells." For example, if the state spends funds to develop a data management system to compile this information and to develop a website to provide that data to the public, would those be project costs or administrative costs?

Pennsylvania notes that information requests will also be subject to state requirements under the Pennsylvania Right-to-Know Law.

DOI Standard Award Terms and Conditions

For Section B, Pennsylvania is very concerned with potential supply chain issues relating to compliance with this Executive Order and would request clarification from Interior regarding failure to comply with the provisions of EO 14005.

Under Section C, while DEP will work closely with federal partners to gain consent to access any AO well plugging site in Pennsylvania funded by the IIJA, our current consent to access process only confers the right of entry on DEP staff and our contractors. We will need to amend that process to allow for federal staff access.

For Section D, DEP would appreciate clarification as to the meaning of "construction, alteration and repair" in terms of what IIJA-funded work will be required to follow these rules and which will not. DEP supports the requirement for locally prevailing wages.

Under Section G, please see our comment regarding Executive Order 14005, above. DEP is very

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concerned about this provision given current supply chain issues and is concerned that compliance with these requirements may lead to fewer wells being plugged. We are requesting guidance on the waiver process and request that Interior give some consideration to a blanket waiver in certain situations or if certain processes are followed. We are also concerned about oversight of these provisions and what will be required to demonstrate compliance with this requirement. Does this provision apply to other equipment such as monitoring equipment, computers, etc. that is purchased via awarded contracts or is it limited to materials used in the plugging of OA wells?

Conclusion

DEP appreciates the opportunity to supply this feedback and questions on the draft FY 2022 State Initial Grant Guidance. Thank you for your consideration of our remarks. Should you have questions or need additional information, please contact Kurt Klapkowski, Acting Deputy Secretary for the Office of Oil and Gas Management, by email at kklapkowsk@pa.gov or by phone at 717.783.9893.

Sincerely,

Patrick McDonnell
Secretary

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From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Monday, April 18, 2022 7:19 PM EDT
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>
CC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Smith, Cory, EMNRD <Cory.Smith@state.nm.us>
Subject: Fwd: [EXTERNAL] Initial State Grant Questions

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From: Nottingham, Gregory P <gregory_nottingham@ios.doi.gov> on behalf of orphanedwells, DOI <orphanedwells@ios.doi.gov>
Sent: Monday, April 18, 2022 10:49:39 AM
To: wyganta@michigan.gov <wyganta@michigan.gov>; ntew@ogb.state.al.us <ntew@ogb.state.al.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; basil.seggos@dec.ny.gov <basil.seggos@dec.ny.gov>; bob.brinkmann@oregon.gov <bob.brinkmann@oregon.gov>; HANELL, CASEY (DNR) <casey.hanell@dnr.wa.gov>; catherine.dickert@dec.ny.gov <catherine.dickert@dec.ny.gov>; christi.craddick@rrc.texas.gov <christi.craddick@rrc.texas.gov>; Mulkey, Cindy <Cindy.Mulkey@dep.state.fl.us>; cluxford@minerals.nv.gov <cluxford@minerals.nv.gov>; Dan.Brennan@illinois.gov <Dan.Brennan@illinois.gov>; dan.seamount@alaska.gov <dan.seamount@alaska.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; eric.vendel@dnr.state.oh.us <eric.vendel@dnr.state.oh.us>; FrankThorwald@thorwaldgroup.com <FrankThorwald@thorwaldgroup.com>; james.a.martin@wv.gov <james.a.martin@wv.gov>; jeff.robbins@state.co.us <jeff.robbins@state.co.us>; jeremy.price@alaska.gov <jeremy.price@alaska.gov>; jnew@ogb.state.ms.us <jnew@ogb.state.ms.us>; jessie.chmielowski@alaska.gov <jessie.chmielowski@alaska.gov>; Chapman, James <james.chapman@ncdenr.gov>; jhalvorson@mt.gov <jhalvorson@mt.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; johnbaza@utah.gov <johnbaza@utah.gov>; johnrogers@utah.gov <johnrogers@utah.gov>; julie.murphy@state.co.us <julie.murphy@state.co.us>; Kaitlyn.Smith@iogcc.state.ok.us <Kaitlyn.Smith@iogcc.state.ok.us>; kenneth.wagner@ee.ok.gov <kenneth.wagner@ee.ok.gov>; larry.bengal@aogc.state.ar.us <larry.bengal@aogc.state.ar.us>; lhelms@nd.gov <lhelms@nd.gov>; mark.williams@dnr.ga.gov <mark.williams@dnr.ga.gov>; azogcc@azdeq.gov <azogcc@azdeq.gov>; mvisher@minerals.nv.gov <mvisher@minerals.nv.gov>; mthomas@idl.idaho.gov <mthomas@idl.idaho.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; molly.michaelson@maryland.gov <molly.michaelson@maryland.gov>; phil.skorupa@dmme.virginia.gov <phil.skorupa@dmme.virginia.gov>; richard.ieyoub@la.gov <richard.ieyoub@la.gov>; Robert Ghiglieri <rghiglieri@minerals.nv.gov>; robyn.strickland@occ.ok.gov <robyn.strickland@occ.ok.gov>; schweire@dhec.sc.gov <schweire@dhec.sc.gov>; Roxanne Reiley <Roxanne.reiley@tn.gov>; rretherford@dnr.in.gov <rretherford@dnr.in.gov>; r.hoffman@kcc.ks.gov <r.hoffman@kcc.ks.gov>; shane.khoury@aogc.state.ar.us <shane.khoury@aogc.state.ar.us>; sbelieu@nogcc.ne.gov <sbelieu@nogcc.ne.gov>; s.duffy@kcc.ks.gov <s.duffy@kcc.ks.gov>; tom.kropatsch@wyo.gov <tom.kropatsch@wyo.gov>; uduak-joe.ntuk@conservation.ca.gov <uduak-joe.ntuk@conservation.ca.gov>; wayne.christian@rrc.texas.gov <wayne.christian@rrc.texas.gov>; dianne.jones@iogcc.state.ok.us <dianne.jones@iogcc.state.ok.us>; kklapkowsk@pa.gov <kklapkowsk@pa.gov>; johnny.adams@la.gov <johnny.adams@la.gov>; cori.troutman@ky.gov <cori.troutman@ky.gov>; adtabor@nd.gov <adtabor@nd.gov>; katherine.calogero@dec.ny.gov <katherine.calogero@dec.ny.gov>; roby.fulkerson@la.gov <roby.fulkerson@la.gov>; tracie.paladijczuk@alaska.gov <tracie.paladijczuk@alaska.gov>; eric.vendel@dnr.ohio.gov <eric.vendel@dnr.ohio.gov>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; bartkettle@utah.gov <bartkettle@utah.gov>; bjones@mt.gov <bjones@mt.gov>; natashaballif@utah.gov <natashaballif@utah.gov>; mbohrer@nd.gov <mbohrer@nd.gov>; d.keen@kcc.ks.gov <d.keen@kcc.ks.gov>; bob.brinkmann@dogami.oregon.gov <bob.brinkmann@dogami.oregon.gov>; zee.sr.priest@dogami.oregon.gov <zee.sr.priest@dogami.oregon.gov>; abdel.zellou@conservation.ca.gov <abdel.zellou@conservation.ca.gov>; kidderk1@michigan.gov <kidderk1@michigan.gov>; aogc.lbengal@gmail.com <aogc.lbengal@gmail.com>; jennbrandt@pa.gov <jennbrandt@pa.gov>; elidavis@pa.gov <elidavis@pa.gov>; andrew.adgate@dnr.ohio.gov <andrew.adgate@dnr.ohio.gov>; dcounahan@pa.gov <dcounahan@pa.gov>; hwise@pa.gov <hwise@pa.gov>; bbabb@pa.gov <bbabb@pa.gov>; Robert Rice <robert.rice@wv.gov>; nate.pearson@state.co.us <nate.pearson@state.co.us>; david.andrews@state.co.us <david.andrews@state.co.us>; cwvanderbusch@nd.gov <cwvanderbusch@nd.gov>; alvaro.linero@dep.state.fl.us <alvaro.linero@dep.state.fl.us>; majordano@pa.gov <majordano@pa.gov>; msuchodols@pa.gov <msuchodols@pa.gov>; hodan.marta@azdeq.gov <hodan.marta@azdeq.gov>; katie.vance2@la.gov <katie.vance2@la.gov>; kahaarsager@nd.gov <kahaarsager@nd.gov>; patrick.amole1@wyo.gov <patrick.amole1@wyo.gov>; jenmeans@pa.gov <jenmeans@pa.gov>; b.parker@kcc.ks.gov <b.parker@kcc.ks.gov>; vincent.agusiegbe@conservation.ca.gov <vincent.agusiegbe@conservation.ca.gov>; marvin.combs@ky.gov <marvin.combs@ky.gov>; reneea.lofton@dogami.oregon.gov <reneea.lofton@dogami.oregon.gov>; broyer@dnr.in.gov <broyer@dnr.in.gov>; stone.amanda@azdeq.gov <stone.amanda@azdeq.gov>; kmcquillan@ogb.state.al.us <kmcquillan@ogb.state.al.us>
Cc: Tryon, Steve G <stephen_tryon@ios.doi.gov>; Lodder, William B <William_Lodder@ios.doi.gov>; Nottingham, Gregory P <gregory_nottingham@ios.doi.gov>; Rainey, Kimberly A <kimberly_rainey@ibc.doi.gov>; Reichert, Matthew D <matthew_reichert@ibc.doi.gov>; Nwoha, King C <king_nwoha@ibc.doi.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] Initial State Grant Questions

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Greetings,

We have received a number of questions from IOGCC members related to the Initial State Grant guidance issued on April 12, 2022. To ensure that all member States receive the same information, we have summarized the questions and provide

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responses below:

1. Can DOI extend the due date for the Large-scale Initial State Grant application?

   Response: No. The Bipartisan Infrastructure Law (BIL) established the deadline 180 days from the date of enactment, which lands on the weekend of May 15, 2022. For that reason, 11:59 pm ET on Friday, May 13, is the due date for the Large-Scale Initial State Grant. The Small-Scale Initial State Grant, however, does not have a specified application deadline.

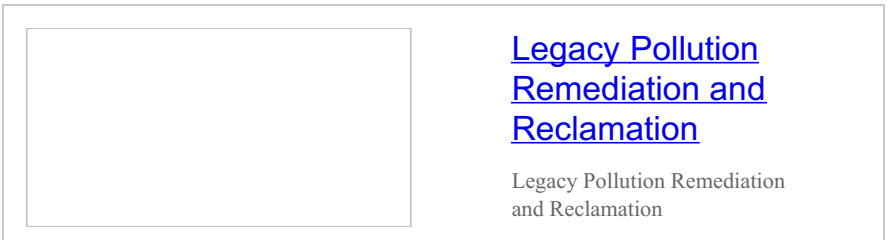
2. When does the 90-day clock start within which States must obligate at least 90% of funds?

   Response: The 90-day clock for obligations begins on the Effective Date of the grant. Distinct from the Award Date (the date funds are distributed to the State), the Effective Date can be later and will be established by the Agreements Officer at DOI in consultation with the individual State based, in part, on the State's readiness to begin drawdown of funds that starts the Period of Performance and the 90-day obligation clock.

3. Where can we find the Data Reporting template?

   Response: DOI is posting the Date Reporting template and its companion narrative document on the program website:

   https://www.doi.gov/oepc/legacy-pollution-remediation-and-reclamation



4. Where can we find the Catalogue of Federal Domestic Assistance (CFDA) and the opportunity number?

   Response: The CFDA can be found at the assistance listing in the following link:

   https://sam.gov/fal/9b70b4be82234cb881078f4c3d47ef6b/view

   The Opportunity Number is not necessary given that applications are to be mailed to the program mailbox: **Orphanedwells@ios.doi.gov**.

   However, if a State would like a Funding Opportunity Number for reference, the following may be used:**D-AQD-FA-22-003**

5. Are grant applications to be submitted through Grants.gov?

   Response: No. Grant applications are to be submitted by email to the following:**Orphanedwells@ios.doi.gov**

6. Will DOI provide training?

   Response: Yes. DOI is coordinating with IOGCC to schedule training, tentatively on Friday, April 22, and Wednesday, April 27. The training will be hosted by IOGCC on Zoom. The training will address how to complete the required application elements. Be on the lookout for an invitation. The two sessions will consist of the same content and you may attend one or both trainings. Time will be set aside for Q&A with the participants.

Please contact us if you have additional question.

Thank you.

Energy Community Revitalization Program
State and Tribal Grants
Office of Environmental Policy and Compliance (OEPC)
U.S. Department of the Interior
1849 C Street NW, Rm 2607
Washington, DC 20040

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From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, April 05, 2022 11:06 AM EDT
To: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: Fwd: [EXTERNAL] IOGCC Environment Committee

Hi Kaitlyn -

Would you please add Matt Eales, info below, to the IOGCC env committee. Let me know if you have any questions.

Thanks
Adrienne

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From: Matthew Eales <MEales@lucid-energy.com>
Sent: Friday, April 1, 2022 7:38 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] IOGCC Environment Committee

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Adrienne,

Would you mind recommending me for the IOGCC Environment Committee?

All the best,
Matt Eales
832-496-7513

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Subject: Fwd: [EXTERNAL] Meeting w/ Marathon Oil - Placeholder
Location: EMNRD's Office in Santa Fe

Start: Tuesday, April 26, 2022 3:00 PM EDT
End: Tuesday, April 26, 2022 4:00 PM EDT
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: jbradfute@marathonoil.com
Required Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>

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From: Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>
Sent: Tuesday, April 5, 2022 11:06:35 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Meeting w/ Marathon Oil - Placeholder
When: Tuesday, April 26, 2022 2:00 PM-3:00 PM.
Where: EMNRD's Office in Santa Fe

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From: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Sent: Tuesday, May 24, 2022 6:18 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: Fwd: [EXTERNAL] RE: RE: Carlsbad Brine Well Remediation

Tiffany A. Polak

From: Dibbern, Justin B <Justin_Dibbern@oxy.com>
Sent: Tuesday, May 24, 2022 2:43 PM
To: Polak, Tiffany, EMNRD; Griswold, Jim, EMNRD
Cc: Higgins, Taylor J
Subject: [EXTERNAL] RE: RE: Carlsbad Brine Well Remediation

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Jim/Tiffany,

We heard some positive news regarding the Carlsbad Brine Well remediation work and was hoping to reach out for an update if you guys don't mind. Still on track for completion in Summer 2022? Any other detail or timing you're able to share?

Thanks,

Justin Dibbern | Advisor Land Negotiator – Business Development | Occidental Petroleum Corporation
5 Greenway Plaza, Suite 110 | Houston, TX 77046 |*Office* 713.985.6974 | *Cell* 936.520.7928 | Justin_Dibbern@Oxy.com

---

From: Dibbern, Justin B
Sent: Monday, February 28, 2022 4:19 PM
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: RE: [EXTERNAL] RE: Carlsbad Brine Well Remediation

Tiffany,

Thanks very much for the update and for getting back to me. Would it be fair to say it looks like the project is still on track for completion sometime in Spring 2022?

Thanks,
Justin

From: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Sent: Monday, February 28, 2022 3:31 PM
To: Dibbern, Justin B <Justin_Dibbern@oxy.com>
Subject: FW: [EXTERNAL] RE: Carlsbad Brine Well Remediation

WARNING - This message is from an EXTERNAL SENDER - be CAUTIOUS, particularly with links and attachments.

Mr. Dibbern,
We are having some positive results in the Brine well stabilization project and are on schedule. As you may have heard, we recently concluded the sand injection phase and are working through the remainder of the remediation project. We hope to have a more detailed update within the month.
Thank you for reaching out,
Tiffany

Tiffany A. Polak
Oil Conservation Division – Deputy Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505.231.1389
Tiffany.Polak@state.nm.us

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From: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Sent: Monday, February 28, 2022 1:32 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] RE: Carlsbad Brine Well Remediation

From: Dibbern, Justin B <Justin_Dibbern@oxy.com>
Sent: Monday, February 28, 2022 12:24 PM
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: [EXTERNAL] RE: Carlsbad Brine Well Remediation

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Hi Jim,

Just wanted to check in and see if any update regarding the Carlsbad Brine Well. Happy to talk via phone is easier as well.

Appreciate it,

Justin Dibbern | Advisor Land Negotiator – Business Development | Occidental Petroleum Corporation
5 Greenway Plaza, Suite 110 | Houston, TX 77046 |*Office* 713.985.6974 | *Cell* 936.520.7928 | Justin_Dibbern@Oxy.com

---

From: Dibbern, Justin B
Sent: Friday, February 18, 2022 1:30 PM
To: jim.griswold@state.nm.us
Subject: Carlsbad Brine Well Remediation

Afternoon Jim,

I saw on the EMNRD site below that remediation of the Carlsbad Brine Well is expected for Spring 2022. Would you mind sharing if that timeframe is still looking accurate or any other details around expected completion? Hoping to nail down some of our later 2022 (and beyond) plans for the area and would very much appreciate any color you can share regarding remediation timing and/or green light for drilling and completions activity in the surrounding area. Happy to chat if easier as well.

https://www.emnrd.nm.gov/carlsbad-brine-well-remediation-authority/

Thank you,

Justin Dibbern | Advisor Land Negotiator – Business Development | Occidental Petroleum Corporation
5 Greenway Plaza, Suite 110 | Houston, TX 77046 |*Office* 713.985.6974 | *Cell* 936.520.7928 | Justin_Dibbern@Oxy.com

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From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Wednesday, April 06, 2022 1:32 PM EDT
To: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: Fwd: [EXTERNAL] UPDATE: DOI Initial Grant Guidance--State Comments
Attachment(s): "Indiana DNR comments on initial grant guidance.msg","Kentucky Comments on DOI State Initial Grant Guidance - BIL.msg","Louisiana's Comments on Initial Grant Draft Guidance, Orphaned Wells.msg","Questions from the Missouri Geological Survey on Draft Initial Grant Guidance.msg","Fwd NM Comments on Draft Initial Grant Guidance for BIL Plugging Program.msg","NY Comments on Draft Initial Grant Guidance.msg","North Dakota DMR comments on DRAFT initial grant guidance..msg","FW Comments for Initial Grant Guidelines.msg","Fwd Pennsylvania Department of Environmental Protection's Comments on FY 2022 State Initial Grant Guidance .msg","Railroad Commission of Texas comments in response to initial grant guidance.msg","Comments on Draft Guidance for Orphan Well Grants.msg"

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From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Wednesday, April 6, 2022 12:25:21 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: [EXTERNAL] UPDATE: DOI Initial Grant Guidance--State Comments

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Attached are the comments shared with Amy by the following states:

Indiana
Kentucky
Louisiana
Missouri
New Mexico
New York
North Dakota
Ohio
Pennsylvania
Texas
Wyoming

Amy has confirmed with Greg Nottingham that DOI received these comments. If your state submitted comments that are not included here, please send a copy to Amy.

Thanks,
Lori

From: Lori Wrotenbery
Sent: Wednesday, March 23, 2022 4:47 PM
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: UPDATE: Initial Grant Guidance.

Attached are the comments I submitted to DOI today on the draft state initial grant guidance.

I will be out of the office from March 24th through April 1st. If you need anything from IOGCC during that time, please let Amy know. I will return to the office on April 4th.

Thanks,
Lori

From: Lori Wrotenbery
Sent: Monday, March 21, 2022 4:53 PM
Subject: UPDATE: Initial Grant Guidance.

Attached is the Orphaned Well Data Reporting Template, which is referenced in the initial grant guidance in paragraph (j) on page 7 and paragraph 2 on page 11. It did not get posted with the guidance as intended, but Steve Tryon asked me to share it with you.

From: Lori Wrotenbery
Sent: Thursday, March 17, 2022 2:58 PM
Subject: RE: UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

Breaking News:

DOI has released the draft initial grant guidance: https://www.doi.gov/pressreleases/biden-harris-administration-releases-draft-

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guidance-invites-public-comment-new.

We are scheduling a states-only meeting for tomorrow afternoon at 1:00-2:30 PM CT to review the draft. If you can join us, please follow the Zoom instructions below. I will send you a copy of my preliminary comments on the draft before the meeting.

Please let me know if you have any questions.

Thanks,
Lori

You are invited to a Zoom webinar.
When: Mar 18, 2022 01:00 PM Central Time (US and Canada)
Topic: Review of DOI's Draft Initial Grant Guidance--States Only

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AMERICAN OVERSIGHT

From: Tom Kropatsch <tom.kropatsch@wyo.gov>
Sent: Tuesday, March 15, 2022 5:57 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Comments on Draft Guidance for Orphan Well Grants

Thank you for the opportunity to submit these comments. These comments relate to any draft grant guidance documents that may be issued by the Department of Interior (DOI).

There are three issues that I suggest should be clarified by the DOI related to requirements on states related to the orphan well grants in the infrastructure bill.

First, the bill clearly says that States may use the funding provided for any of the following purposes:

- To plug, remediate, and reclaim orphaned wells located on State-owned and private land.
- To identify and characterize undocumented orphaned wells on State and private land.
- To rank orphaned wells based on factors including
    - public health and safety
    - potential environmental harm
    - other land use priorities.
- To make information regarding the use of funds received under this subsection available on a public website
- To measure and track
    - Emissions of methane and other gases associated with orphaned wells
    - Contamination of ground water or surface water associated with orphaned wells
- To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.
- To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.
- Subject to subparagraph (B) to administer a program to carry out any activities described in clauses (i) through (viii).

The language that seems to be utilized in the draft guidance makes it uncertain that the States will have a choice in implementation of any of these purposes, but rather will be required to implement all of these actions. As stated above, the language of the bill is unambiguous, directing that the States may utilize the funding for any of the purposes listed. The guidance issued by the DOI should follow the language of the bill and unambiguously indicate that the States may elect to use the funding for any of the same purposes, but will not be required to implement all of the purposes.

Second, a statement in the draft guidance indicates that the States must negotiate access to state or privately owned surface for federal employees, so that the federal employees may witness any of the operations undertaken by the States utilizing this funding. The States likely do not have authority to negotiate and guarantee access to private lands for federal employees. In addition, federal employees witnessing operations conducted under a State program is likely redundant and an unnecessary use of funding and personnel resources. The States will likely have a program to witness work conducted as part of this program. So this requirement will result in federal personnel witnessing state personnel witnessing contractors completing the work. Witnessing the witnessers is not an efficient use of this funding or of limited personnel. This requirement should be removed from the guidance.

Finally, it was stated on a recent DOI and IOGCC membership call that the surface ownership of the lands would determine the type of orphan the well would be considered for utilization for funding. For example, if the surface was privately owned the well would be considered an private orphan well, even if the minerals were federal, making the well a federal well in all other aspects. This is unacceptable and should be clarified to match federal statutes and practices regarding which entity has regulatory authority over specific wells. If the DOI utilized the surface ownership to determine the well type (fed/fee/state/tribal) it would throw decades of regulatory processes upside down. In States with large split estate lands, many wells which were federally regulated for the life of the well would suddenly become the responsibility of State regulatory agencies to plug as orphan. The term “lands” has always been used to mean surface, mineral, or combination thereof. Proof of this is found in 30 USC § 1291 (4) which states in part “Federal Lands means any land, including mineral interests, owned by the United States…..” A well that has been under federal regulatory regime for the life of the well because it was drilled into and produced from federal minerals should remain a federal well under this program and DOI or associated federal agencies should be responsible for plugging these wells under the federal program in the infrastructure bill.

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I am happy to discuss any of these comments in further detail should you need additional information.

Thanks,

Tom Kropatsch
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Wyoming Oil and Gas Conservation Commission
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From: Eric.Vendel@dnr.ohio.gov <Eric.Vendel@dnr.ohio.gov>
Sent: Wednesday, March 30, 2022 9:24 AM EDT
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: FW: Comments for Initial Grant Guidelines
Attachment(s): "Cover Letter - Initial Grant Guidelines Comments.pdf","Comments to Initial Grant Guidelines.pdf"

From: Vendel, Eric
Sent: Wednesday, March 30, 2022 9:23 AM
To: orphanedwells@ios.doi.gov
Subject: Comments for Initial Grant Guidelines

Please find attached a cover letter and Ohio's comments to the Initial Grant Guidelines. Should you have any questions concerning the comments, please feel free to contact me.

Regards,
Eric Vendel, Chief
Ohio Department of Natural Resources, Division of Oil and Gas Resources Management

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Ohio Comments to Department of the Interior's FY 2022 State Initial Grant Guidance

Topic	FY 2022 State Initial Grant Guidance	Sec. 40601 of Public Law 117-58	Comments
Best practices for state plugging program	"2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting of a program to plug, remediate, and reclaim orphaned wells on state and private lands." p. 1. "Many of these best practices may form the basis for future requirements in the subsequent orphan well grants, so states expecting to apply for subsequent rounds of grants are encouraged…" p. 1.	No requirements	Recommend removal of these references so as not to confuse the requirements for initial grants from the Infrastructure, Investments, and Jobs Act and the grant guidance. The Act does not contain any requirements regarding best practices. In addition, removal of these best practices allows each state to implement their state statutes and rules applicable to plugging and apply state staff's experience and knowledge of the state geology and wells as best practices for the proper plugging of the wells.
"Date of receipt of funds" definition	"…is the date on which the awarded grant is available for *obligation* in the receiving…" p. 2	No provision	The definition of date of receipt of funds uses the word "obligation" in the definition, but the word obligation is not defined. Recommend defining "obligation" in the guidelines to clarify the meaning.
"Orphaned Well" definition	"With respect to State of private land, the term *also*: …" p. 3	No provision	The inclusion of the word "also" in the definition with respect to state and private

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			lands is confusing and misleading. The inclusion of "also" suggests that the definition of orphaned well applicable to the states incorporates the definition listed for federal or tribal land. Recommend replacing "also" with "means either of the following". The change would result in the two definitions applicable to state and private land only.
"obligated" definition	No provision	No provision	Recommend including a definition for "obligated" as that term is referenced in the definition for "date of receipt of funds" and it appears in the second sentence of paragraph E on p. 4 of the guidelines. This will provide more clarity.
III. Permissible Uses of Initial Grant Funds D. p. 4	P.4 Requires that a State for a large-scale Initial grant include a certification that the state will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging ….	Section 40601(c)(A)(I)(II)(cc)	Recommend clarification whether the new contract may be signed prior to the distribution of the funds to the state.
"C. Recommended Elements" pp. 6-7	PP. 6-7 lists recommended elements that the Department of the Interior has determined are important components	No requirements	Recommend the removal of the Recommended Elements for the initial grants. These Recommended Elements are not required under Public

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	of successful orphan well program.		Law 117-58. If these elements are retained and/or incorporated into the guidelines for the formula or performance grants, many are not required by the Act and would recommend including only those elements required Sec. 349(c)(4)(B) of the Act.
IV. Instructions For Initial Grant Applications B. ii. Detailed Budget Proposal/Justification p. 5	P. 5 Detailed Budget Proposal/Justification requires itemized budget breakdown with unit cost for purposes of the application for initial grants.	No provision	Recommend revising the requirements as State use of contractors and consultants for plugging of wells does not allow for these itemized unit costs during the application process. States are already securing contractors and consultants and the guidelines were not finalized at the time of contracting, so States were unaware of these additional requirements. In addition, a state will not know these itemized unit costs until the contractors and consultants complete the work, so it is not possible to estimate at the time of the initial grant application.
V. Recommended standards for Measurement, Plugging, and Remediation pp. 8-9	Pp. 8-9 establish recommended standards for measurement, plugging, and remediation. The second sentence under	No requirements	Recommend the removal of the Recommended Elements for the initial grants. These Recommended Elements are not

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	Pre- and Post-Plugging Measurement or Estimation of Air and Water Pollution reads "States ***are also expected*** to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetative performance standards appropriate to the site's future land uses."		required under Public Law 117-58. If these elements are retained and/or incorporated into the guidelines as recommendations, the second sentence should be revised to remove "are also expected" as it is recommended not required. In addition, the clause "…the achievement of vegetative performance standards appropriate to the site's future land uses" appears misplaced as this section addresses air and water pollution.
V. Recommended standards for Measurement, Plugging, and Remediation p. 9	A. ii. "States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized). States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.	No requirement	As acknowledged in the guidelines, no current methodology is finalized to complete this work. Therefore, contractors are not at this time prepared to complete this work. Procurement of services for states is a time-consuming and expensive process. Incorporating this work into initial grants is not feasible due to the lack of methodology and timing of the initial grant applications. A recent discussion with experts in methane emission measurement stated that the cost to measure the methane emissions will be at least $10,000 per well,

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			which may be 20% of the plugging costs of a well results in less wells being plugged.
VII. Reporting Requirements E. Data Collection and Reporting pp. 10-11	pp. 10-11 establishes criteria that will be incorporated into Formula grants and Performance grants	No requirement	A state cannot easily implement a data tracking system through existing systems such as RBDMS. Typically, there are state procurement requirements that must be followed. After acquisition of a system, it must be implemented on a state network that must implement state security protocols. This is a time consuming and expensive processes. Recommend eliminating (E)(1)(c) as states are contracting to have the work performed and the oilfield labor force is transient and changes at a moment's notice. E.g. a water truck driver arrives at a site to deliver or remove water and then never returns to the site. This is overly burdensome to track.
VIII. DOI Standard Award Terms and Conditions p.12-13	C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall	No requirement	Ohio statute establishes the authority for Ohio Division of Oil and Gas employees and persons the Division contracts with may enter on the

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	provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.		land to perform the plugging/restoration work. Any other person entering onto private land may be trespassing. Recommend removing the statement providing the federal awarding agency to make site visits and the requirement that states provide federal awarding agency access to project sites to the extent necessary and appropriate. The removal of that statement will avoid trespass liabilities.
VIII. DOI Standard Award Terms and Conditions p.12-13	G. Section 70914 of the Act prohibits the obligation of funds under a federal award unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States unless subject to an approved waiver.	Section 70914 of the Act	Recommend as a solution allowing an affidavit from contractors attesting that the materials are produced in the United States as there is no way for a state to ensure all products are produced in the United States. Recommend further discussion to clarify the requirements of the waiver provisions. If this requirement is not clarified in a workable manner, the work pursuant to the initial grants may be greatly delayed.

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Ohio Department of Natural Resources

MIKE DEWINE, GOVERNOR — MARY MERTZ, DIRECTOR

Eric Vendel, Chief
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March 28, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U. S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon,

The Ohio Department of Natural Resources, Division of Oil and Gas Resources Management (Division) is the regulatory body in Ohio that is responsible for the program that plugs orphaned oil and gas wells. The State of Ohio implemented an orphan well plugging program in 1978 and has been plugging wells in various capacities since its inception. Because of the long history of oil and gas exploration in Ohio prior to the Division being created in 1965, thousands of orphan wells exist in the state. The Bipartisan Infrastructure and Jobs Act is a great opportunity for states to address the plugging of orphan wells, restoring well sites, and protecting communities and the environment while creating jobs.

One of the principal objectives of the Initial Grant under the Act is to provide either $5,000,000 or $25,000,000 to the states for plugging, remediation, and reclamation with minimal requirements. Enclosed with this cover letter are the Division's comments in a table format that references the topic, the applicable draft guideline, the applicable language of the Act, and the Division's comment. A number of the Division's comments recommend removal of many of the recommendations and requirements for the Initial Grant in order for states to implement their programs and prepare for the requirements in the Act applicable to the Formula Grants and Performance Grants. Furthermore, the recommendations and requirements for the Initial Grant add considerable time and expense, which defeats the principal objectives of the Initial Grant.

I hope that these comments are helpful to you. The Division appreciates the collaboration with the Department of the Interior on the guidelines for implementation of the Act and ultimately, the successful use of the funding.

Sincerely,

Eric Vendel, Chief
Ohio Division of Oil and Gas Resources Management
Enclosure: Ohio Comments to the Department of the Interior's FY 2022 State Initial Grant Guidance

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NM-EMNRD-22-0512-B-000905

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, April 05, 2022 5:37 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: Fwd: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program
Attachment(s): "NMOCD Comments on - State-initial-grant-guidance-bil FINAL.docx"

Amy- Attached/below are our comments.

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From: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Sent: Wednesday, March 30, 2022 6:40 PM
To: orphanedwells, DOI <orphanedwells@ios.doi.gov>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program

To Whom It May Concern:

Enclosed please find the New Mexico Energy, Minerals and Natural Resources Department (EMNRD), Oil Conservation Division's (OCD's) comments on the Department guidance on the implementation of the Bipartisan Infrastructure Law plugging program Initial Grant. OCD is responsible for regulating oil and gas production statewide under the New Mexico Oil and Gas Act. Since 1935, the Oil and Gas Act has required that oil and gas production is undertaken responsibly to protect oil reserves, the rights of mineral owners, and the environment. OCD oversees more than 58,000 producing wells, a number that has grown rapidly since 2015 with the historic drilling boom New Mexico and the United States has seen because of advances in horizontal well drilling. In 2021, New Mexico became the second largest oil producer in the U.S.

Under the Oil and Gas Act inactive wells must be plugged to protect oil and gas reserves, mineral rights and New Mexico's unique environment. While many of those wells are plugged by oil and gas operators, when companies become insolvent, the state must step in. OCD does this through its established plugging program that currently plugs an average of 50 wells per year based on available resources. To implement this program, OCD hires local oil and gas service companies to perform the work, directly injecting money into the local economy. With additional resources OCD's plugging program can be scaled. The additional resources provided by the BIL will help OCD scale this program and we offer the attached comments to help ensure successful implementation that respects each states' unique circumstances.

We are open to discussing this issue further but believe it is critically important that plugging responsibility be properly allocated between the state, federal and tribal programs under the Act, please contact Adrienne Sandoval, Oil Conservation Division Director at adrienne.sandoval@state.nm.us, or Dylan Fuge, General Counsel, NM Energy Minerals and Natural Resources Department, at dylan.fuge@state.nm.us.

Regards,

Dylan M. Fuge
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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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NM-EMNRD-22-0512-B-000907

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private surface and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

Commented [A1]: OCD joins in IOGCCC's comments on this provision that additional guidance/training would be helpful on funding draw down.

Commented [A2]: As OCD had previously noted, we did not include such wells in the numbers reported in our NOI. Does the Department have plans to collect updated data given this clarification? Since more than half of NM's overall well count is federal, this delta could be significant.

Commented [A3]: OCD already successfully plugs federal wells consistent with federal standards so this obligation is workable. However, often times plugging federal wells is delayed by the extensive process BLM uses to identify orphan wells. OCD believes its formal administrative hearing process against the most recent registered operator is sufficient to identify inactive wells that have been orphaned and properly subject to a state plugging order. If BLM, wants to incentivize states to plug split estate wells it should rely on state identification processes. ¶
¶
A related question arises though in split estate lands, because the minerals are federal BLM is the bond holder. If a state were to plug on such lands there would need to be a mechanisms for any existing federal bonds to be forfeit by the BLM with proceeds transferred to the state.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants for any of the following purposes~~to~~:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

Commented [A4]: OCD recommends that the definition track verbatim the term as defined in the BIL. The language here is close, but do not believe there needs to be any deviation.

Commented [A5]: OCD joins in IOGCCC's general comments on this section and would appreciate clarification on application of funds to pre-award costs.

Commented [A6]: Proposed language is from BIL.

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

Commented [A7]: OCD is not certain this description adequately describes potential scenarios given the diversity of Indian land ownership type (e.g., allotted, restricted fee). We would encourage a double check. ¶
¶
Also, we assume non-trust lands are just private lands not withstanding the highlighted language or the fact they may be owned by a tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Commented [A8]: OCD recognizes the importance of prioritizing wells sites to address those presenting greater risks. ¶
¶
We want to encourage DOI to not be overly prescriptive in this space as each state has unique procedural requirements we must follow. ¶
¶
For example, in NM our process requires us to take an operator through a formal administrative enforcement type hearing to obtain a plugging order.

Commented [A9]: See prior comment.

Commented [A10]: OCD recognizes the critical importance of addressing methane emissions in the oil patch, as evidenced by our nation leading waste rules. However, in this context we encourage DOI to maximize flexibility - e.g., rather than well specific measurements in each instance can we use emissions factors or representative measurements from other wells in the same field. Well specific measurements may slow down plugging pace . We also urge caution in requiring reliance on draft protocols that have not yet been robustly deployed at scale. Such methodologies may not work in all environments and tend to favor larger plugging operators over smaller ones.

Commented [A11]: OCD encourages DOI to modify this requirement to measure and track ground and surface water contamination to where necessary/appropriate. OCD investigates ground and surface when and where circumstances dictate (e.g., evidence of releases or other indicia of contamination). Requiring it in all instances potentially risks unnecessary monitoring well construction, which increases disturbances and drives up plugging costs.

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;

(k) How the State will use funding to locate currently undocumented orphaned wells;

(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;

(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;

(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;

(r) A work schedule covering the period of performance of the Initial grant; and

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

Commented [A12]: See general comment above about prioritization. States are obligated to follow their existing statutes rules and regulations, which will facilitate public participation in various ways/times in the plugging process. A changed or standardized approach may require states to undertake rulemakings or seek legislative updates which can be time consuming and may inhibit the funding from being spent within the year time frame.

Commented [A13]: OCD recommends rephrasing this to state "If the state will use funding to locate currently undocumented wells, how will it be used?"

Commented [A14]: OCD supports this objective, but notes that it may often be outside the jurisdiction of entities charged with plugging authority under state law. OCD intends to partner with other state agencies to support such programs to the extent permitted by law.

Commented [A15]: See prior comment, also to some extent this provision overlaps with (m) above, consider consolidating, (m), (n) and (o).

Commented [A16]: See prior comment regarding prioritization. NM recognizes the importance of addressing these sites in underserved communities, but this is one of many factors we have to consider as part of our process.

Commented [A17]: OCD is requests clarity on what is being requested by this line item. A work schedule may vary depending on circumstances that are outside of OCD's control, we request this be a "proposed" work schedule that will provide flexibility when and if changes need to be made.

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D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

Commented [A18]: See comments above re: methane measurement and ground water contamination.

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

Commented [A19]: As noted above, we encourage DOI to adopt flexibility with respect to this measurement guidance. There are implementation risks with pointing to a methodology that has not yet be finalized or deployed at scale. ¶
¶
Second, the more prescriptive the methodology required, the greater the risk you disqualify plugging crews from smaller local companies. ¶
¶
OCD encourages other models, e.g., emission factors/assumptions or allowing measurements from one well in a field being plugged to be extrapolated to other wells in the same field. ¶
¶
For example, OCD is currently in the middle of a plugging a large field where an operator discontinued operations in 1984. The field follows a similar area/basin and the orphaned wells are all of a similar vintage a design. Rather then measuring emissions at every single well, it would seem reasonable to measure a subset to come up with a reasonable estimate that can be utilized for the remainder of the wells in the field.

Commented [A20]: As demonstrated by our existing work plugging wells on federal lands, OCD existing program can meet these standards. DOI should affirmatively stated that existing programs with plugging standards are presumed to suffice and should not require verbatim compliance with BLM standards/program, except when a state is plugging a well subject to federal jurisdiction on the Fed's behalf.

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Commented [A21]: We echo IOGCC's comments that these interactions should be coordinated by DOI.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

Commented [A22]: OCD supports the need to collect data to show success and accountability within the program. However, we note, that particularly in the first couple quarters as states ramp up their programs, that there may be less well plugging and remediation work, with numbers increasing as time goes on. NM is working now to scale its program, but that work, particularly contract updates takes time.

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Commented [A23]: While some large multi-national plugging contractors may have the ability to provide this granular information, many smaller, local plugging companies likely will not. Invoicing information is typically aggregated by the number of hours total not broken down by specific employee and NAICS code. This granular information request may disadvantage local companies who hire workers in local communities. OCD recommends requesting total hours worked per site as an aggregate number. ¶
¶
Alternatively, we could collect periodic information from our plugging contract (e.g., annual updates on employee count, plugging crew composition, and hours spent on a typical project).

Commented [A24]: This data element may be challenging for States to obtain as we don't have specific population data of surrounding structures. We can more readily identify structures within the immediate area or identify if the well is in city/town. OCD recommends that this be a more general question such are there occupiable structures in the surrounds half mile radius.

Commented [A25]: Similar to comment above, OCD recommends that this be a yes or no check box.

Commented [A26]: OCD suggests that there be a caveat to this request, such as "if surface water contamination was identified, then was surface waste contamination remediated"

Commented [A27]: Same comments as on surface water with the additional highlight that groundwater contamination could take years to remediate so a response of "in progress" should be allowed.

Commented [A28]: OCD encourages that the practices for attainment of regrowth should follow either state land provisions or recommendations by land owners. Holding a site for a period of years prior to releasing it may hold up future leasing of the site by a state land agency or private land owner.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

Commented [A29]: OCD recognizes the importance of importance of having access to sites where federal funds are being used. However, OCD suggests that this requirement be revised to make clear that in all instances site visits be coordinated in conjunction with state staff prior to visiting. This is particularly true on private lands. While state personnel have the right to enter and inspect oil and gas sites on private land, we work though private land owner as necessary to obtain the necessary authorizations. Those access rights are not automatically extended to any other entity affiliated with the state.

Commented [A30]: See comment above on site prioritization and disadvantaged communities.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

Commented [A31]: OCD supports the buy American Provision in the BIL. However given supply chain issues, it would be helpful to get some guidance on what constitutes manufactured products and construction materials.¶
¶
It would also be helpful if DOI kept track of waivers currently available for any products that may be necessary during the plugging process. ¶
¶
For example, with supply chain problems over the last year, plugging contractors have found it increasingly challenging to find cement. While what is available may be manufactured in the U.S., with limited options it also may not be. Without these critical materials plugging and remediation work cannot be undertaken. It is critical states have easy access to the latest information.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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From: Klapkowski, Kurt E <kklapkowsk@pa.gov>
Sent: Wednesday, March 30, 2022 10:16 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Fwd: Pennsylvania Department of Environmental Protection's Comments on "FY 2022 State Initial Grant Guidance"
Attachment(s): "3 30 PA DEP Comments on IIJA Initial Grant Guidance.pdf"

FYI - please see the attached comments on the draft Grant Guidance sent from Pennsylvania to Interior today. I have not received any confirmation of receipt as of yet.

Thanks,

Kurt Klapkowski | Acting Deputy Secretary
He/him/his
Office of Oil and Gas Management
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8765 | Harrisburg, PA 17101
Phone: 717.783.9893 | Fax: 717.772.2291
Rewriting Pennsylvania's Legacy

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From: Klapkowski, Kurt E
Sent: Wednesday, March 30, 2022 5:13:21 PM
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
Cc: Wallace, Todd <twallace@pa.gov>; Cole, Kate <kacole@pa.gov>; Wise, Harry (hwise@pa.gov) <hwise@pa.gov>; Magon, Crystal <cmagon@pa.gov>; Davis, Elizabeth <elidavis@pa.gov>
Subject: Pennsylvania Department of Environmental Protection's Comments on "FY 2022 State Initial Grant Guidance"

Attached please find the Commonwealth of Pennsylvania's comments on the Department of the Interior's draft "FY 2022 State Initial Grant Guidance." We appreciate the opportunity to provide these comments and look forward to working with Interior on orphan well plugging issues in the future. If you have any difficulty accessing this document or questions regarding any of the content of the comments, please let me know.

Thanks,

Kurt Klapkowski | Acting Deputy Secretary
He/him/his
Office of Oil and Gas Management
Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8765 | Harrisburg, PA 17101
Phone: 717.783.9893 | Fax: 717.772.2291
Rewriting Pennsylvania's Legacy

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pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION

March 30, 2022

U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: FY 2022 State Initial Grant Guidance – Pennsylvania DEP Feedback

To Whom It May Concern:

The Pennsylvania Department of Environmental Protection (DEP) submits the following comments in response to the Department of Interior's (Interior) request for feedback on the draft FY 2022 State Initial Grant Guidance. We appreciate the opportunity to provide comments on Interior's guidance for implementing this critical program.

Introduction

The introduction states that "The document indicates what information is *required* in applications for an Initial grant and for expenditure of the grant funding. It also includes a number *strongly recommended* best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding."

Pennsylvania notes and supports comments indicating that the Infrastructure Investment and Jobs Act (IIJA) appears to grant states flexibility in how to best operate their abandoned and orphan (AO) well plugging programs. We will likely implement many, if not all, of the recommended best practices outlined in this document, but we believe that the discretion to do so is explicit in the IIJA and should be retained in any Grant guidance developed by Interior, including this Initial Grant guidance. This comment should be considered to be repeated wherever the issue of requirements versus recommended practices is found.

Definitions

1. For the definition of "administrative costs":
    - Although we appreciate the concepts behind this definition, Pennsylvania requests more clarification as to which costs are considered "project" costs and which costs are considered "administrative" costs. This is a critical concern as states are limited to 10% of Grants for "administrative" costs and so will need to track these expenditures closely. Some examples might be helpful in understating the distinction that Interior is attempting to create between the two types of costs. We would suggest that the Abandoned Mine Reclamation program has significant experience in addressing these issues and that experience could prove valuable in the AO well plugging context.
    - Section 40601(b)(3)(A)(II)(aa) of the IIJA requires a State to certify it is a member of the Interstate Oil and Gas Compact Commission (IOGCC) as a condition of eligibility to receive up to $25 million in Initial Grant funding. Is the annual IOGCC membership due reimbursable to the State as an "administrative cost" under the Initial

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Grant?

- As a separate matter, we would appreciate clarification as to whether the 10% administrative costs side of the Initial Grant also must be obligated within a year, and if so, what constitutes "obligation" in that context? For example, say Pennsylvania hires a geologist to work on program development issues six months after the "date of receipt" of the grant. Can that money be considered "obligated" because the state must continue to pay their salary? Or will only the six months of service before the one-year cutoff be counted?

2. For the definition of "Date of receipt of funds": Pennsylvania generally supports this definition and appreciates the operational flexibility it provides to states. It might be helpful if Interior could provide additional examples of how this process would work in practice as this will be the first time most state oil and gas programs will be using this process.

3. For the definitions of "Federal Land" and Federal Wells":
   - Pennsylvania cannot emphasize strongly enough that the approach outlined in these definitions for AO wells on federal land will leave a very significant portion of AO wells in the eastern United States without well plugging resources. We believe that if the mineral estate is privately held, but the surface estate is owned by the federal government, it should be included in the **state** program. As an example, we have identified and completed due diligence on over 1,200 AO wells in the Allegheny National Forest in Pennsylvania. In the overwhelming majority of those AO wells, the mineral estate has been severed from the surface estate and remains privately held. We did not include those wells in our Formula Grant Notice of Intent as we were led to believe that this category of AO wells would be addressed through the federal program. Because the U.S. Department of Agriculture manages the Allegheny National Forest, it seems that the intent of the IIJA was to include AO wells on such land as eligible for funding. It now does not appear that this is the case, and so those wells will be addressed by neither the state program nor the federal program. These definitions should be amended to address this situation and allow for inclusion of such wells in the state AO well plugging program. Alternatively, the AO wells where the federal government owns the surface and the mineral estate is privately held should be included in the federal IIJA well plugging program.
   - On a second note, Pennsylvania believes strongly that our state restoration and plugging standards should apply regardless of the ownership of the surface estate. We have more than three decades experience plugging AO wells and a long history of requiring site restoration after drilling is complete and after plugging is complete. Our program reflects this unique experience addressing such issues in Pennsylvania. This comment should be considered to be repeated wherever the issue of state versus federal standards is found.

4. For the definition of "Orphaned well": Pennsylvania believes strongly that the state statute's definitions for "abandoned well" and "orphan well" should take precedence, regardless of the ownership of the surface estate. For example, the Commonwealth has the *authority* to plug abandoned wells without first determining the operator status, which this definition appears to require before a well can be considered "orphaned." This concern is magnified where the AO wells on federal surface estates will not be addressed under the federal AO well plugging program. Pennsylvania also recommends that (2) be amended to include different

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terminology using other terms by changing "another term" to "other terms".

5. For the definition of "Unobligated amount": Pennsylvania suggests building a "good faith" provision into this definition or in the substantive sections of the guidance where this term is used. There may be events that are beyond the control of a state where amount may remain or become "unobligated." For example, there are times where an AO well plugging job is not as complex or difficult as it was believed to be when bids were received, and money that was "obligated" is released to the state. Would those funds need to be returned to Interior? Similarly, is "definite commitment" limited to goods and services received, or can those items be ordered before the one year but not yet delivered? Finally, what if a state declines payment because the contractor failed to perform or violated the terms of the contract? Would those funds need to be returned to Interior? Also, please see our earlier comment about "administrative costs," above. Some guidance should be provided regarding the "obligation" of those costs in relation to the one-year deadline this definition.

Permissible Uses of Initial Grant Funds

Under Section A, in the seventh bullet, we would appreciate some clarification about the meaning of "restore native species habitat." In Pennsylvania, although we require well site restoration, we do not specify the use of native species or the end result of the restoration beyond site vegetation and stabilization. In some cases, the surface landowner may have specific concerns about restoration (for example, for agriculture rather than woodlands) or may request that certain areas not be restored (and therefore subject to our post-construction stormwater requirements). As an alternative to clarification, Pennsylvania recommends that Interior adds a sentence that defers to the state's restoration and permanent stabilization requirements.

For Section A, in the last bullet, Pennsylvania is requesting additional clarification on what must be included in the Work Agreement. For example, if methane emission quantification is not identified in the Agreement, but we discovered a leaking AO well, would we be barred from using IIJA funding to quantify those emissions? We believed the states retained a fair measure of flexibility when deciding how to utilize these Grant funds and having to identify each possible use of the funding up front may limit that discretion.

Under Section B, Pennsylvania is very concerned about this provision not reflecting the reality of hydrocarbon development in the eastern United States. Please see our comments about relating to the definitions of "federal land" and "federal well" above. This gap in AO well plugging must be addressed. DEP's proposed language instead is: "*If no federal well drilling permit – State can use IIJA funds to plug AO wells on federal surface estates in cooperation with Federal Land Manager*."

For Section D, Pennsylvania would appreciate more guidance on what it means to "issue new contracts, amend existing contracts, or issue grants…" within 90 days after date of receipt. Our concern is that we are in a situation where getting contracts out the door for bidding within 90 days of receipt of funds will be very difficult. Are these other activities included in the 90 days or not? DEP proposes the following language be incorporated here: "*Issue new contracts for work identified under Section A, above, but not later than 90 days from receiving funds…*"

For Section E, please see our earlier comment about "unobligated funds". We need some allowances identified to take anomalies into account for guidance for states. We suggest that there be a process in which states might demonstrate a good-faith effort that they attempted to meet the one-year

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obligation and Interior approves the retention and use of the Grant funds by the state. Some additional questions related to this provision include:

1. What does the state do if a contract is completed below the bid amount?
2. If 10% of the Grant for "administrative costs" is calculated at $2.5 million, does a failure to spend 90% on projects reduce that 10% budgeted for "administrative costs"?
3. What if, because of supplier issues, an ordered truck or other equipment could not be delivered within the one-year timeline, and the payment is not due until after the deadline?
4. For personnel costs, what if staff is hired to implement the IIJA but they leave before the one-year deadline so are not "obligating" the full intended/projected amount by the deadline?

Instructions for Initial Grant Applications

In general, Pennsylvania appreciates the acknowledgement of the submission of the State Certification/Application.

Under Section B, number ii "Detailed Budget Proposal/Justification", Pennsylvania believes that it will require significant work to prepare this Proposal/Justification within the timeframes remaining before May 13, 2022, but will attempt to provide this information to the best of our ability. We do note that some of this information will likely be speculative given the short time available to prepare this documentation, as well as the potential for decisions concerning allowable expenses (for example, whether to attempt to quantify methane emissions, and if so, whether to do so via contract or staff development and equipment purchases) to require more time to be made than is allowed under the IIJA. We would request that Interior use its discretion to approve state applications for the Initial Grant even if some of these elements may not be developed to the degree that later Grant applications will be.

Under Section C, please see our comment regarding requirements versus recommendations above. This section discusses recommendations, but it appears that if a state chooses to implement these recommendations, then they become requirements. Additionally, we have the following comments and questions pertaining to the following components:

1. Under (b), we are not certain what "witnessing" requirements is intended to convey and request clarification.
2. Under (c), we are not certain what "resource and financial risk" is intended to convey and request clarification.
3. Under (f), Pennsylvania believes that significant clarification is needed on the question of methane emission quantification. There do not appear to be standardized methodologies in place today and there may even be competing claims to be "the preferred methodology." Please provide clarification about what is expected should states choose to have this element in their AO well plugging program, as well as how the federal AO well plugging program is implementing this provision. Also, we have had several inquiries concerning the ownership of "carbon credits" for plugging AO wells and eliminating methane emissions. Some operators have even indicated that they will plug wells *at no cost to the state* if we are willing to assign the rights to claim such credits to the plugging operator. Is there any guidance that Interior can provide states on how these credit systems work and who has the right to claim such credits? We have also received indications that plugging work using government funds will not be eligible for carbon emission credits.

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4. Under (i), due to resource limitations, DEP has historically handled prioritization internally to the agency and has not typically engaged in a public process. Guidance on what Interior believes are best practices in this area as well as any expectations Interior has for states on this issue would be appreciated.
5. For (m), (n), and (o), again, due to resource limitations, DEP has not historically engaged in the practices outlined in subsections (m), (n) and (o). Guidance on what Interior believes are best practices in this area as well as any expectations Interior has for states on this issue would be appreciated.
6. For (r), Pennsylvania would appreciate clarification on what best practices are applicable here. Is this a narrative that we provide or is it more specific with identifiable dates/times/next steps, etc.?

For Section D, please see comments on "administrative costs" and "unobligated funds," above.

Recommended Standards for Measurement, Plugging and Remediation

Please see our comment regarding requirements versus recommendations, above. This section discusses recommendations, but it appears that if a state chooses to implement these recommendations, then they become requirements.

For Section A, number (i), it would be useful to have specific direction regarding the measurements that Interior is asking the states to provide or a statement that Interior will accept the state's chosen method of measurement, units, etc. We also note that the language in the next-to-last sentence appears to address our earlier comment regarding site restoration and "native habitat." This formulation seems to be more appropriate given our state's regulatory requirements.

For Section A, number (ii), please see comments above regarding quantification of methane emissions and the lack of a recognized national standard methodology.

For Section B, number (ii), please see comment above requesting clarification of the intention behind "well plug witnessing."

Federal and Tribal Coordination

These provisions appear to require states to do any coordination with federal partners in their state. It would be useful for Interior to help serve as a go-between or identify points of contact within the federal land management agencies and minerals managers. Unless specifically obligated by the IIJA, the collection and reporting of data as required by an authorized "cost-sharing, Good Neighbor, or other arrangement with the Federal government" should be limited to the terms and conditions of such authorized agreement.

Reporting Requirements

Pennsylvania believed that reporting under the IIJA Initial Grant would be limited to the "15-month" report included as a requirement in the IIJA. However, these reporting requirements have been expanded to include quarterly reports, annual personal property reports, etc. It is our understanding that Performance Reports are based on what level of detail that Interior will be requesting. Pennsylvania requests additional detailed guidance as to what Interior is looking for from the states, because we will need to set up codes to track the required information.

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Although Pennsylvania believes it is reasonable to prepare and submit a Quarterly Report to Interior, the Quarterly Report should not include all reporting components of the "15-month" report that is specified in the IIJA. The Quarterly Reports should be limited to a subset of information and data that provides a summary of the progress made during each quarter to achieve the goals of the Initial Grant.

2 C.F.R. § 200.328 states the "…federal awarding agency must use OMB-approved common information collections, as applicable, when providing financial and performance reporting information." Does this mean that the OMB must approve the information that is required to be reported in the Quarterly reports?

For Section C "Final Financial and Performance Reports", Pennsylvania is requesting clarification from Interior as to the "period of performance end date," so we can plan to provide this report.

For Section D "15-month report", Pennsylvania suggests that Interior use the defined phrase "date of receipt of funds" in this section to avoid confusion.

For Section E, number 1, Pennsylvania has not historically collected the information requested in sections E.1.(c)-(d) and would appreciate guidance from Interior regarding these data elements and how they can be derived.

For Section E, number 2, Pennsylvania is requesting clarification on what items in this section would be considered "project" costs and which would be considered "administrative" costs. For example, the IIJA allows states to spend Grant funds to "make information regarding the use of funds received under this subsection available on a public website," and to "measure and track emissions of methane and other gases associated with orphaned wells; and contamination of groundwater or surface water associated with orphaned wells." For example, if the state spends funds to develop a data management system to compile this information and to develop a website to provide that data to the public, would those be project costs or administrative costs?

Pennsylvania notes that information requests will also be subject to state requirements under the Pennsylvania Right-to-Know Law.

DOI Standard Award Terms and Conditions

For Section B, Pennsylvania is very concerned with potential supply chain issues relating to compliance with this Executive Order and would request clarification from Interior regarding failure to comply with the provisions of EO 14005.

Under Section C, while DEP will work closely with federal partners to gain consent to access any AO well plugging site in Pennsylvania funded by the IIJA, our current consent to access process only confers the right of entry on DEP staff and our contractors. We will need to amend that process to allow for federal staff access.

For Section D, DEP would appreciate clarification as to the meaning of "construction, alteration and repair" in terms of what IIJA-funded work will be required to follow these rules and which will not. DEP supports the requirement for locally prevailing wages.

Under Section G, please see our comment regarding Executive Order 14005, above. DEP is very

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concerned about this provision given current supply chain issues and is concerned that compliance with these requirements may lead to fewer wells being plugged. We are requesting guidance on the waiver process and request that Interior give some consideration to a blanket waiver in certain situations or if certain processes are followed. We are also concerned about oversight of these provisions and what will be required to demonstrate compliance with this requirement. Does this provision apply to other equipment such as monitoring equipment, computers, etc. that is purchased via awarded contracts or is it limited to materials used in the plugging of OA wells?

Conclusion

DEP appreciates the opportunity to supply this feedback and questions on the draft FY 2022 State Initial Grant Guidance. Thank you for your consideration of our remarks. Should you have questions or need additional information, please contact Kurt Klapkowski, Acting Deputy Secretary for the Office of Oil and Gas Management, by email at kklapkowsk@pa.gov or by phone at 717.783.9893.

Sincerely,

Patrick McDonnell
Secretary

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From: Royer, Brian <BRoyer@dnr.IN.gov>
Sent: Wednesday, March 30, 2022 4:33 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Mueller, Ryan <RMueller@dnr.IN.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Indiana DNR comments on initial grant guidance
Attachment(s): "Guidance comments.pdf","Indiana Guidance Comments.pdf"

Please accept the two attached documents as Indiana DNR's comments on the draft grant guidance.

Thanks,

Brian Royer
Orphan Well Manager
Indiana Department of Natural Resources
Division of Reclamation
317-417-6556
broyer@dnr.IN.gov
www.dnr.IN.gov

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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14619 W. St. Rd. 48
Jasonville IN 47438 9517
March 30, 2022

Mr. Steve Feldgus
Deputy Assistant Secretary for Land and Minerals
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Mr. Steve Tryon
Director, Office of Environmental Policy and Compliance
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: Initial Grant Guidance

Dear Sirs:

The Indiana Department of Natural Resources, Division of Reclamation's Oil and Gas Section has reviewed the draft of the initial grant guidance and offers the attached comments for your consideration. Our main objective is in line with the law to remediate orphan wells in Indiana to protect communities from current or future environmental harm or adverse impacts to human health and we hope that our comments are useful as we move forward.

If you have any questions or need further information, please contact me at (812)665-2207 or sweinzapfel@dnr.in.gov.

Sincerely,

Steven J. Weinzapfel
Director
Division of Reclamation

SJW/BR

cc: Ryan Mueller

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From: dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>
Sent: Wednesday, March 30, 2022 5:01 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Slone, Gordon (EEC) <gordonr.slone@ky.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>; Cavender, Gina (EEC) <Gina.Cavender@ky.gov>
Subject: Kentucky Comments on DOI State Initial Grant Guidance - BIL
Attachment(s): "state-initial-grant-guidance-bil Kentucky Comments 3 30 2022.pdf"

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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From: Mark Brady <Mark.Brady@la.gov>
Sent: Wednesday, March 30, 2022 12:06 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Thomas Harris <Thomas.Harris@LA.GOV>; Richard Ieyoub <Richard.Ieyoub@la.gov>; Blake Canfield <Blake.Canfield@LA.GOV>; John Adams (DNR) <Johnny.Adams@LA.GOV>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Louisiana's Comments on Initial Grant Draft Guidance, Orphaned Wells
Attachment(s): "Cover La Comments FY2022 Initial Grant Guidance Orphaned Wells.pdf","La Specific Comments - FY 2022 Initial Grant Guidance Orphaned Wells.pdf"

Please find two attachments with Louisiana's comments on the Initial Grant Guidelines pursuant to Section 40601 (c)(3) of the Bipartisan Infrastructure Law.

Let us know if you need anything further.

MARK A. BRADY | Undersecretary
Louisiana Department of Natural Resources
617 North Third Street | Baton Rouge, LA 70804
Phone: (225) 342-8844

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JOHN BEL EDWARDS
GOVERNOR

THOMAS F. HARRIS
SECRETARY

State of Louisiana

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE SECRETARY

March 29, 2022

Secretary Deb Haaland
Department of Interior

Emailed to orphanedwells@ios.doi.gov

Dear Secretary Haaland:

Please accept this letter and its attachment as the official comments of the State of Louisiana to the "FY2022 State Initial Grant Guidance" ("Draft Guidance") issued by your agency on March 17, 2022 concerning the Initial Grant authorized by the Bipartisan Infrastructure Law ("BIL").

In addition to comments, (indented and in red), on specific portions of the Draft Guidance included in the accompanying attachment, we highlight the following general comments below.

Louisiana is excited to expand the scope of its Oilfield Site Restoration Program and recognizes the significance of the opportunity as well as the task faced in implementing the orphaned well grant programs authorized by the BIL. In order to measure and track methane emissions and water contamination from orphaned wells, provide good paying jobs to the many workers in the oil and gas sector displaced by recent economic downturns, and address disparate impacts from orphaned wells on disadvantaged communities in a transparent manner, greater clarification and specificity is needed regarding certain financial and technical aspects of the Initial Grant.

Louisiana requests the US DOI make clear when and how frequently the Initial Grant can be drawn down, whether it can be used to reimburse pre-award costs for permissible uses, and how interest earned on Initial Grant funds held in Louisiana's financial system are to be handled.

Louisiana further requests clarification as to the differences between the requirements found in Sec. 40601(c)(A)(i)(II)(cc) and Sec. 40601(c)(3)(C). Louisiana recommends that the Sec. 40601(c)(A)(i)(II)(cc) requirement be deemed satisfied if (1) the state has entered into contracts within 90 days of receipt of Initial Grant funds and

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(2) at least 90% of the Initial Grant funds will be committed to those contracts. Further, Louisiana recommends that the Sec. 40601(c)(3)(C) requirement be deemed satisfied if all work funded by the Initial Grant is under way or scheduled within one year of receipt of Initial Grant funds. Based on how long some work may take as well as the need for post-plugging and restoration monitoring and measurements of emissions and water quality, requiring all work to be completed within a year of receipt may make accomplishment of the BIL's stated goals impossible.

In addition to these funding questions, Louisiana has several questions regarding metrics, standards, and other requirements for performing the orphaned well work itself. Most of these comments can be found in the attachment, but I wish to highlight a couple of them here. Louisiana plans to implement methane monitoring and water contamination monitoring and remediation in its Initial Grant projects, among several other best practices outlined in the Draft Guidance. We appreciate that DOI is leaving many of the specific methods for implementing this work to the states. That being said, Louisiana requests, to the extent possible, that DOI provide the states with required metrics DOI plans to utilize for its reports and tracking for the Initial Grant and future grants. This will ensure that states are able to provide DOI with the data and other information it deems necessary and will lead to greater consistency for projects across multiple funding sources.

Finally, in informal meetings held with states earlier this year and last, DOI staff stated that due to the mandatory time periods set forth in the BIL, NEPA would not apply to projects funded by the orphaned well grants authorized by the BIL. Such guidance is notably absent in the Draft Guidance. Louisiana strongly recommends that this be included in DOI's final guidance to ensure that the Initial Grant funding can be obligated within the 1-year time period set forth in the BIL.

Thank you for the opportunity to comment on this guidance. We look forward to working with your agency as this program progresses.

Sincerely,

Thomas F. Harris
Secretary

TFH:mh

Attachment

c: Mark Brady, DNR Undersecretary
Blake Canfield, DNR Executive Counsel

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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.1 Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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STATE OF LOUISIANA COMMENTS 3/29/22

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

> This definition states that not more than 10% of funds received can be attributed to "general grants management or program administration." Would this definition preclude states from obligating the funds to state funds statutorily dedicated for plugging and remediating orphaned sites (i.e. Louisiana's Oilfield Site Restoration "OSR" Fund) or to a procurement office, which would then distribute the funds? Administrative costs cannot be expended for "preparation for and execution of individual projects." This leads us to believe that the 90% can be allocated to the Louisiana's OSR Fund and permissible expenses made from there.
>
> Louisiana further recommends that the guidance specifically identify which permissible uses of initial grant funds are classified as "administrative costs." Specifically, Louisiana believes that "administrative costs" should be narrowly defined and not include uses such as the measuring and tracking of emissions from orphaned wells or the measuring and tracking of contamination of groundwater or surface water associated with orphaned wells.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

> The official date of receipt of funds is when the recipient "initiates its first drawdown of funds from the Automated Standard Application for Payment." Is the drawdown mentioned here the transfer of funds from DOI to the Louisiana Department of Natural Resources ("DNR"), or the transfer from the DNR to its individual accounts?

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DOI should clarify whether this definition also applies to the deadline found in Sec. 40601(c)(3)(C). Louisiana further supports DOI allowing states to receive initial grant funds through multiple separate drawdowns and for the deadlines in Sec. 40601(c)(3)(A)(i)(II)(cc) and (c)(3)(C) to run independently for each drawdown.

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

The definition states, "median household income less than twice the poverty level." It is presumed that this refers to the national poverty level? How would this be quantified if poverty level is determined by household dependents?

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

1. has the meaning given the term by the applicable State; or
2. if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

DOI should seek uniformity as much as possible in how this definition is applied across the states. It is unclear what is meant by "the meaning given the term by the applicable State." DOI guidance should, as much as possible, interpret this definition to ensure that all states are addressing the same types of wells and related oilfield sites. Louisiana is concerned that differences in state statutory or regulatory

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terms that utilize the term orphaned and definitions may penalize those states with established orphaned well programs or allow states to inflate their well counts with wells that either have a current responsible party or ultimately may be found to have never been drilled. This in turn has the potential to redirect orphaned well funding away from states with established orphaned well programs, severely limiting the number of documented orphaned wells that can actually be plugged and restored, thus blunting the ability to reduce associated methane emissions, water contamination, and impacts on public health, including impacts on communities of color, low-income communities, and tribal and indigenous communities.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

DOI should further explain the difference between the requirement to return unobligated amounts found in Sec. 40601(c)(3)(C) and the requirement to enter into new contracts, amend existing contracts, or issue grants found in Sec. 40601(c)(3)(A)(i)(II)(cc). Louisiana recommends that the requirement in Sec. 40601(c)(3)(C) be interpreted to mean that specific work obligating the Initial Grant funds has been directed by a state pursuant to a contract or grant entered into previously, but that the directed work may still be performed beyond 1 year after the date of receipt of the Initial Grant funds. DOI should make it clear that completion or invoice of such work by the 1-year date is not needed for the Initial Grant fund amounts to be obligated. Louisiana is concerned that the proposed definition may lead to the opposite interpretation inasmuch as the "legal liability … for an immediate or future payment" is often contingent on the contracted work being performed.

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;

Since plugging, remediating, and reclaiming orphaned wells located on Federal land is not an allowable use, is it correct that Initial Grant funds cannot be spent to plug, remediate, or reclaim "federal wells" or are there scenarios where a federal well may not be on federal surface owned lands? If DOI is aware of any examples in Louisiana please provide them.

- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;

Does DOI have any recommended metrics for reporting/tracking water contamination associated with orphaned wells? While Louisiana plans to measure and track this contamination, further guidance on federal metrics will ensure that data collection is undertaken in a way to promote consistency across the various grant programs and between states.

- measure and track emissions of methane and other gases associated with orphaned wells;
- measure and track contamination of groundwater or surface water associated with orphaned wells;

Do you have any recommended practices or methods for determining ground water contamination? For example, if the site has no water well in the vicinity, should a state drill a water well, sample water, and plug the water well following test results/remediation?

- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

Does DOI have any recommended metrics for such remediation? Louisiana plans to remediate adjacent land and remove associated pipelines, facilities, and infrastructure; but recognizes the exact method of remediation may differ significantly depending on the orphaned sites locations within Louisiana's environment. Orphaned site remediation in coastal Louisiana may require more and different work than other sites due to Louisiana's coastal zone management regulations and plan. Louisiana requests that any required standards or metrics take into account Louisiana's unique environment and

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allow enough flexibility to ensure its protection.

- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and

  Can DOI provide examples of eligible expenses under the use "identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities"? Are these eligible uses intended to be limited to orphaned well plugging, reclamation, and site restoration projects or do they include additional non-plugging, reclamation, and site restoration projects and activities?

- administer the program of work identified in its grant agreement.

  Permissible uses of initial grant funds (A). Louisiana recommends that the guidance specifically identify which permissible uses of initial grant funds are classified as "administrative costs." Specifically, Louisiana believes that "administrative costs" should be narrowly defined and not include uses such as the measuring and tracking of emissions from orphaned wells or the measuring and tracking of contamination of groundwater or surface water associated with orphaned wells.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

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Louisiana interprets this to mean that a state must certify [that it will not use less than 90% of its funding to issue new contracts, etc…] within 90 days of receipt of funds. Funding does not have to necessarily be expended for those purposes within 90 days. Louisiana requests that DOI further explain the differences between the requirement to enter into contracts, amend existing contract or issue grants within 90 days of Initial Grant receipt versus the requirement to return funds unobligated 1 year after the date these funds are received.

Finally, how does DOI plan to address potential legal challenges to contract issuance or awards by unsuccessful competing bidders or applicants? Such challenges may take longer than 90 days after receipt of Initial Grant Funds to resolve. What if new contracts have to be entered into outside the 90 day time-period due to such challenges?

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

This subsection states "all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary." Does this mean the States have one year to have the funds obligated or does this mean the States must spend the funds within one year? Also, see comments on "unobligated amounts" definition and comments to III.D above.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is May 13, 2022, 11:59 pm EDT.

Applications must be emailed to orphanedwells@ios.doi.gov. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described

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below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

a. SF-424v4 Application for Federal Assistance
b. SF-424A Budget Information for Non-Construction Programs An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
c. SF-LLL Disclosure of Lobbying Activities
d. OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

Without an awarded contract, specific costs and itemized budget will be difficult. Instead, a high-level cost estimate and budget may be all that is possible.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

If work and services are procured under multiple contracts for the Initial Grant funds, is a separate OMB Form No. 4040-0019 required for each contracted project, or is the "project" being addressed include all work to be funded by the Initial Grant funds?

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

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Is the narrative attachment intended to be a stand-alone document or should it be attached to/included with one of the required forms? If it is to be attached or included in one of the required forms, please identify which form.

a. The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
b. A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
c. Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
d. If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
e. Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
f. The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;

Is the ACR method DOI's final recommended method for tracking and measuring methane emissions from orphaned wells? Developing a testing protocol, procure equipment, and create testing containment will require time and expense. With the ACR methodology document still in draft form, any subsequent changes by ACR may have significant impacts on a state's plan and budget. Louisiana recommends that DOI recognize that methane monitoring by states during the Initial Grant period may require time to ramp up and may lead to improvements from lessons learned throughout the BIL funded projects. Is DOI supportive of states beginning with smaller-scale sampling programs, with the thought to improve monitoring processes over the initial few months?

g. The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Does DOI have recommended metrics for measured and tracked groundwater and surface water contamination? Louisiana recommends that DOI recognize that differences in environments between states and within states will require some flexibility on any such metrics. This is especially true with Louisiana's many unique waterways, wetlands, and coastal habitat.

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h. The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
i. Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
j. Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
k. How the State will use funding to locate currently undocumented orphaned wells;
l. Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
m. Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
n. Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
o. Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
p. Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

Does DOI have any recommended coordination methods it has found successful that states should consider?

q. The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
r. A work schedule covering the period of performance of the Initial grant; and

This subsection states the need for a work schedule covering the period of performance of the Initial grant. What type of support is needed for a work schedule? What type of work schedule…time sheet, official work schedule submitted to HR, etc.? Is this needed only for state employees or will this be needed for the contractor employees also?

Without a final contract, a draft work schedule at a high level is possible. A defined/detailed work schedule would be completed after contracts are awarded based on the contractors equipment, crews, mobilization plan.

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s. If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

This subsection mentions supplying a copy of the federally approved Indirect Cost Rate Agreement as a narrative attachment. LADNR has an approved indirect cost rate above 20%; will we be allowed to charge our approved indirect cost rate to the grant?

In order to ensure that the orphaned well grant funding is spent in a manner to accomplish the stated goals consistently throughout both the initial grant and subsequent grant phases, DOI needs to provide any specific detailed requirements for orphaned well assessment, measurements and tracking, plugging, and site reclamation prior to the deadline for states to apply for the initial grant. If this is not possible, then DOI needs to give states flexibility both during the initial grant and subsequent grant phases to implement technically sound methods and protocols for the recommended elements and best practices outlined in the draft guidance.

D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

See comments to III.A, above

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   a. The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   b. The State has the capacity to initiate such a program; or
   c. The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   a. The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   b. There are 1 or more documented orphaned wells located in the State; and
   c. The State will use not less than 90 percent of the funding requested to

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issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

See comments to IV.C, above.

A. Pre- and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

Does DOI have a required or preferred timeline for the post abandonment inspection? Does DOI have a preferred format or reporting method? Louisiana recommends that DOI accept state inspection forms that include the required data and information.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf); or,

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for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Inasmuch as plugging wells on federal lands is not an eligible use of Initial Grant funds, how should states ensure that funding sources are not commingled while maintaining the efficiencies of such coordination? Does DOI have a proposed method to allocate potentially shared mobilization costs, rental fees, salaries, or other costs between the state and federal programs?

VII. REPORTING REQUIREMENTS

A. Quarterly Reports: Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified

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by the Office of Management and Budget.

Section VII (A) requires multiple types of reports, but how/where do the States submit the reports?

B. Personal Property report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

Louisiana recommends that the 120 day period does not begin running until all work funded by the Initial Grant funds has been completed. This is especially true in the event DOI allows for multiple separate drawdowns of the Initial Grant funds.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted.

E. Data Collection and Reporting

a. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

In the event the appropriate state agencies implementing this program, do not currently have access to the Risk-Based Data Management Solutions (RBDMS) system referenced herein, Louisiana asks DOI to provide guidance on how those agencies may gain access or the ability to review such system.

b. Well location information (e.g., latitude/longitude);
c. Well type (e.g. orphaned production or disposal well);
d. Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;

Louisiana presumes that the requested NAICS codes and working hours are for each worker on each well site and is not limited to tate

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employees alone. Louisiana is therefore concerned that this requirement may be overly burdensome and may negatively affect the state's ability to obligate funds and delay implementation of the program.

e. The population living within a half mile radius of each well being plugged;
f. Pre-plugging methane emissions (if available);
g. Post-plugging methane emissions;
h. Surface water contamination identified;
i. Surface water contamination remediated;
j. Groundwater contamination identified;
k. Groundwater contamination remediated;
l. Acreage impacted by well and infrastructure (site footprint);
m. Revegetation performance standard monitoring start date;
n. Revegetation performance standard attainment date (project complete);
o. Actual total cost per well of plugging and surface reclamation; and
p. If the project is located in a low-income, disadvantaged, and/or minority community.

For subsection (p), Louisiana recommends, instead of using the terms "disadvantaged, and/or minority-communities" that DOI use the defined terms "communities of color," "low-income communities," and "tribal and indigenous communities."

F. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Is there a required timeframe for when and how long the information must be posted on the public website?

G. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

H. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the

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States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

In addition to "General Provisions," the DOI "Standard Award Terms and Conditions" includes requirements related to "Environmental Projects" and "Construction Projects." Which of these requirements apply to the Initial Grant funds? If "Requirements Related to Environmental Projects" are intended to apply to all contracts awarded from Initial Grant funding, Louisiana is concerned that NEPA requirements will likely make use of Initial Grant funding within the timeframes provided in Sec. 40601 impossible. Based on previous informal presentations and discussions DOI staff stated that NEPA would not apply for BIL orphaned well funding. If that is still the case, Louisiana strongly recommends that DOI's guidance say so. Additionally, clarification on which other requirements apply and do not apply is sought.

B. Award recipients will be expected to comply with Executive Order 14005, Ensuring *the Future Is Made in All of America by All of America's Workers*, which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

Can DOI provide a list or other resources to help identify any applicable waivers or exceptions from Made in America Laws as described in Executive Order 14005?

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

Louisiana recommends that "disadvantaged communities" be

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replaced with the already defined "communities of color," "low-income communities," and "tribal and indigenous communities."

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products

Can DOI provide a list or other resources to help identify any applicable waivers to Sec. 70914 of the Bipartisan Infrastructure Law

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of _____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

DRAFT

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Signature Date

_____ _____

Certifying Official Signature Date

DRAFT

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From: Helms, Lynn D. <lhelms@nd.gov>
Sent: Wednesday, March 30, 2022 4:20 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Hicks, Bruce E. <bhicks@nd.gov>; Tabor, David <adtabor@nd.gov>; Vanderbusch, Cody W. <cwvanderbusch@nd.gov>; Bohrer, Mark F. <mbohrer@nd.gov>; Haarsager, Katie A. <kahaarsager@nd.gov>; Loumer, Robyn D. <rdloumer@nd.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: North Dakota DMR comments on DRAFT initial grant guidance.
Attachment(s): "IIJA Grant Guidance Comments 03302022.pdf","IIJA Grant Guidance with edits 03302022.pdf"

Please find attached North Dakota DMR comments on Draft State Initial Grant Guidance under the Bipartisan infrastructure Law

Lynn D. Helms
Director
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NORTH Dakota | Mineral Resources
Be Legendary.

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NORTH DAKOTA DMR Department of Mineral Resources

March 30, 2022

Steve Feldgus
Deputy Assistant Secretary
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon:

Thank you for the opportunity to provide comments on the Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law.

The North Dakota Industrial Commission Department of Mineral Resources (DMR) is a state agency with jurisdiction over identification, plugging, and site restoration of idle and orphaned wells.

DMR looks forward to continued collaboration with the US Department of Interior (DOI) on implementation of the orphan well provisions of the Bipartisan Infrastructure Law. The program objectives are to provide jobs and protect communities and the environment by plugging orphan wells, restoring well sites, and decommissioning associated facilities. Funding for state programs constitutes the largest portion of the total funding provided. DOI and state regulators will need to work in partnership to achieve the successful use of this funding and meet the legislative objectives by accelerating work already being done by the state idle and orphaned well programs. The primary responsibility for implementation of the legislation lies with the states and the guidance should support, not hinder, our efforts.

Following are DMR key comments, questions, and suggestions on the draft guidance. Attached is a modified version of the Draft Guidance document that incorporates DMR comments:

Page 1 – Best practices – While DMR agrees that it is appropriate for DOI to strongly recommend best practices, the IIJA does not give DOI the authority to place requirements on orphaned well grants that are not explicitly stated in the IIJA.

Bruce E. Hicks
ASSISTANT DIRECTOR
OIL AND GAS DIVISION

Lynn D. Helms
DIRECTOR
DEPT. OF MINERAL RESOURCES

Edward C. Murphy
STATE GEOLOGIST
GEOLOGICAL SURVEY

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Page 2 – Federal land & Federal wells – DMR agrees with the definition of Federal wells, their inclusion in the Federal Program, and the opportunity for states to use grant funds on Federal wells located on state or private surface. However, the definition should include a requirement that federal program funds be exhausted before use of grant funds received under Sec. 40601 may be used to plug and remediate Federal wells located on State or private land.

Page 3 – Orphaned Well – The word “also” just prior to the colon should be removed.

Page 4 – Paragraph B – The final sentence of paragraph B should be modified to read as follows “Funds may not be used for activities on Federal land or Tribal land, but may be used on Federal wells where the surface location is on State or private surface.

Page 6 – Recommended elements - While DMR agrees that it is appropriate for DOI to recommend elements, the IIJA does not give DOI the authority to place requirements on orphaned well grants that are not explicitly stated in the IIJA.

Page 6 – Recommended elements (b) – DOI does not have authority to set qualifications of plugging witnesses or to determine if they are qualified.

Page 6 – Recommended elements (e) – States do not have the information available to provide a detailed description. The guidance should request a general description of how states may use census data to prioritize program expenditures.

Page 6 – Recommended elements (f) – States do not currently possess the technology to track methane and other associated gas emissions from idle and orphaned wells, and any well that is plugged is automatically more environmentally friendly than an orphan well. The guidance should request a general description of how states may use published data and post plugging sampling to estimate methane emission reduction resulting from the program.

Page 6 – Recommended elements (g) – Any well that is plugged is automatically more environmentally friendly than an orphan well. The guidance should request a general description of how states may use well construction data and post plugging sampling to estimate groundwater contamination risk reduction resulting from the program.

Page 7 – Recommended elements (j) – States may not possess all of the data elements contained in the Orphaned Well Data Reporting Template. The word “all” should be stricken from this section of the guidance.

Page 7 (s) - DMR does not have a federally negotiated indirect cost rate.

Page 8 – Recommended Standards For Measurement, Plugging, and Remediation – Paragraph (A) (i) – The word “expected” should be changed to “encouraged” to be consistent with the IIJA.

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Page 10 – There is no definition of for how long these reports will need to be submitted. The guidance should explicitly state a time for final reporting such as 24 months after the last documented idle and orphaned well is plugged and the site reclaimed.

Page 12 – Paragraph C – The word “appropriate” should be changed to “achievable under state law”.

Page 12 – Paragraph D – DOI should add a waiver for workforce issues documented by contractors.

Page 13 – Paragraph G – DOI should add a waiver for supply chain issues documented by contractors.

Respectfully submitted,

Lynn D. Helms

Director, Department of Mineral Resources

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Attached: Draft Guidance document that incorporates DMR comments
Submitted Via orphanedwells@ios.doi.gov

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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.
Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:
1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. ~~Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so s~~States ~~expecting to apply for subsequent rounds of grants~~ are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, after federal program funds are exhausted, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term ~~also~~:
(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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• measure and track contamination of groundwater or surface water associated with orphaned wells;
• remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
• remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
• identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
• administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities on Federal land or Tribal land, but may be used on Federal wells where the surface location is on State or private surface~~is owned by the United States or by an Indian Tribe~~.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. ~~Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and~~ States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements ~~(qualifications of witness, documentation)~~;
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) A general description ~~Details~~ of how the State will utilize census data to prioritize expenditures to benefit ~~identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on~~ disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) A general description of how ~~The methodology to be used by~~ the State may use published data and post plugging sampling to estimate ~~to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the~~ effectiveness of plugging activities in reducing or eliminating methane ~~such~~ emissions;
(g) A general description of how ~~The methodology to be used by~~ the State may use well construction data, plugging data, and post plugging sampling to estimate ~~measure and track contamination of~~ groundwater and surface water contamination risk reduction resulting from ~~associated with orphaned wells, including how the State will confirm the effectiveness of~~ plugging activities ~~in reducing or eliminating such contamination~~;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and ~~all~~ other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:

(a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
(b) The State has the capacity to initiate such a program; or
(c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:

(a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
(b) There are 1 or more documented orphaned wells located in the State; and
(c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged~~expected~~ to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget. This requirement ends 24 months after the last documented idle or orphaned well is plugged and the site reclaimed using grant funds received under Sec. 40601.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and achievable under state law~~appropriate~~, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees. This requirement may be waived upon adequate documentation by contractors of workforce or training issues that will delay implementation of the program.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products. This requirement may be waived upon adequate documentation by contractors of supply chain issues that will delay implementation of the program.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____
Certifying Official Name Title

_____ _____
Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____
Certifying Official Name Title

_____ _____
Certifying Official Signature Date

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From: Dickert, Catherine A (DEC) <Catherine.Dickert@dec.ny.gov>
Sent: Tuesday, March 29, 2022 4:30 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Tryon, Steve G <stephen_tryon@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Murphy, Eileen (DEC) <eileen.murphy@dec.ny.gov>
Subject: NY Comments on Draft Initial Grant Guidance
Attachment(s): "NYS Comments IG Guidance.pdf"

Please see attached our comments on the draft Initial Grant guidance. Thank you very much.

Catherine

Catherine Dickert
Pronouns: She/Her/Hers
Director, Division of Mineral Resources

New York State Department of Environmental Conservation
625 Broadway, Albany, NY 12233-6500
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www.dec.ny.gov |

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NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

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March 29, 2022

Steven Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Dear Deputy Assistant Secretary Feldgus and Director Tryon,

On behalf of New York State Department of Environmental Conservation, I would like to thank you for the opportunity to comment on the Department of Interior's draft Initial Grant Guidance. In addition to the comments made separately by the Interstate Oil and Gas Compact Commission, of which New York is a member state, we would like to offer the following for your consideration.

Page 2 – "date of receipt of funds" We request more detail on how exactly the date of receipt of funds triggers the start of the 90-day timeframe for obligation of funds. How much time will DOI allow between the date of notification of initial grant award and the date when a recipient organization initiates its first drawdown of funds from ASAP?

Page 12 – VIII C – We request DOI change this text to read, "The Federal awarding agency may request documentation of work performed using this funding to ensure appropriate fiscal accountability and oversight. States will provide Federal awarding agency access to relevant documentation in state possession and facilitate Federal awarding agency access to project sites as may be agreed to by the private landowner." This change is necessary because New York has no authority to grant access to well plugging sites located on private property to federal employees.

We look forward to working together to address the issue of orphaned wells in New York State and appreciate your willingness to collaborate with the states to make this program a success.

Thank you,

Catherine Dickert

Catherine Dickert
Director

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

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From: Steele, Amber <Amber.Steele@dnr.mo.gov>
Sent: Thursday, March 24, 2022 4:15 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>; stephen_tryon@ios.doi.gov <stephen_tryon@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>; Lancaster, Nona <nona.lancaster@dnr.mo.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; Bull, Tim <tim.bull@dnr.mo.gov>; Szapa, Aaron <Aaron.Szapa@dnr.mo.gov>
Subject: Questions from the Missouri Geological Survey on Draft Initial Grant Guidance

Good afternoon,

Thank you for the opportunity to provide comments on the draft DOI guidance on initial grants under Section 40601 of the Infrastructure Investment and Jobs Act. Our comments are mainly in the form of questions and if any clarification is needed please let me know.

1. Would hiring personnel to stand up and implement a well plugging program for the duration of the program (i.e., outside of the 12-month timeframe) constitute “obligation” of the funds?
2. What is the process for obtaining pre-approval of reimbursement of costs spent planning, researching, and preparing to apply for an initial and/or formula grant prior to the grant award approval?
3. Can the initial grant timeframe overlap with formula grant funding and vice versa?

Thank you for your time and consideration of our questions and please let me know if setting up a call would be beneficial to discuss any of these details.

Thanks,
Amber

Amber Steele, RG
Geological Survey Program Director
Missouri Geological Survey
O: (573) 368-7152
C: (573) 508-4435

We’d like your feedback on the service you received from the Missouri Department of Natural Resources. Please consider taking a few minutes to complete the department’s Customer Satisfaction Survey at https://www.surveymonkey.com/r/MoDNRsurvey. Thank you.

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From: Colleen Forrest <Colleen.Forrest@rrc.texas.gov>
Sent: Wednesday, March 30, 2022 9:09 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Railroad Commission of Texas comments in response to initial grant guidance
Attachment(s): "IIJA Well Plugging_RRC Texas Comments.pdf"

Hello,
Attached please find comments from the Railroad Commission of Texas in response to the Draft State Initial Grant Guidance issued on March 17, 2022. Thank you for the opportunity to share our thoughts. We look forward to working with the Department of the Interior as we implement this funding in Texas. Please let me know if we may provide any additional information related to our comments.

Thank you,

Colleen Forrest, CGMS
Strategic Planning and Research
Office of the Executive Director
Railroad Commission of Texas
1701 N. Congress Avenue
P.O. Box 12967
Austin, TX 78711-2967
(512) 463-2645

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WAYNE CHRISTIAN, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
JIM WRIGHT, COMMISSIONER

RAILROAD COMMISSION OF TEXAS

March 30, 2022

Mr. Steve Feldgus
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Mr. Steve Tryon
Director, Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via: orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Infrastructure Investment and Jobs Act

Dear Mr. Feldgus and Mr. Tryon:

We appreciate the opportunity to provide comments on the draft State Initial Grant Guidance for funding provided under the Infrastructure Investment and Jobs Act (IIJA).

The Railroad Commission of Texas (RRC) has effectively regulated the oil and natural gas industry in the state of Texas since 1919. The RRC's primary statutory responsibilities in the regulation of Texas oil, gas, and geothermal resources are to conserve the state's natural resources; prevent the waste of natural resources; protect the correlative rights of mineral interest owners; protect the environment from pollution associated with oil, gas, and geothermal activities; and ensure safety by mitigating hazards inherent to the oil and gas industry, including but not limited to, hydrogen sulfide in wells.

Texas is the nation's largest producer of oil and natural gas with over 160,000 active oil wells and nearly 87,000 active gas wells. This energy production supports 2 million jobs in Texas and a quarter of the state's economy. The industry not only benefits Texas, but the entire United States. Nationally, the energy industry supports over 9.2 million jobs that provide billions of dollars in employee wages.

The RRC's well plugging program began in 1983 with the creation of the Well Plugging Fund, used to pay for plugging abandoned oil and gas wells that cause or threaten to cause pollution of the state's surface and ground waters by leaking saltwater or residual hydrocarbon fluids. The more comprehensive Oil Field Cleanup Fund replaced the Well Plugging fund in 1991. In 1993, the Texas Legislature authorized the RRC to recover some of its well plugging expenses through the sale of salvageable equipment. From the program's inception in 1983 through February 28, 2022, the RRC has plugged

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43,118 orphaned wells, with 8,642 wells currently in orphaned status, an increase of 1,246 wells since the Commission submitted its Notice of Intent to Apply for Formula Grants in December.

The Railroad Commission concurs with the IOGGC comments submitted previously. Our additional comments on the draft guidance are presented by section.

SECTION I. INTRODUCTION

The draft guidelines "strongly" recommend numerous best practices. Section 40601 of the IIJA does not authorize the Department of the Interior (DOI) to require states to modify their programs to incorporate DOI's best practices. Many of these recommended best practices would greatly increase the cost of well plugging and site remediation, while reducing the efficiency of the Commission's well plugging program and the number of wells we will be able to plug. For initial grants, this draft guidance appropriately allows states to decide whether to incorporate any of the recommended DOI best practices. Further discussion of this issue should be deferred to later guidance for the performance and formula grants.

SECTION II. DEFINITIONS

The draft guidance defines "Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) - as "the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP)."

We recommend that DOI clarify in the definition of "Date of receipt of funds" whether the grants are reimbursement grants or if funding will be advanced. Section 40601(c)(3)(C) implies that funding will be advanced; if so DOI should clarify the allowable timeframe (30 days, 60 days) before taking the advance. We also recommend that DOI clarify whether interest from the grant funding is considered program income.

SECTION IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

Section C (Recommended Elements) states that, although not required in relation to initial grant funding, many of the listed elements are expected to be required for subsequent grants. Section 40601 does not require this information for initial grant applications, and only some of this information is required for formula and performance grant applications by Section 40601(c)(4)(B) and (c)(5)(B). While some of these items pertain to activities that are optional for the states under (c)(2)(A), for many there is no basis in Section 40601. DOI should work closely with states to address these issues in the drafting of future guidance.

Draft element (j) under Subsection C recommends Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance. Section 40601 does not require a state to provide a list of wells with location information as part of a grant application. Formula and performance grant applications must include an estimate of the number of wells to be plugged, remediated, or reclaimed, but it is up to the state whether to provide a list of wells.

Other elements included in the Orphan Well Data Reporting Template are not appropriate identifying characteristics of the responsible party associated with an orphaned well. If the aim of these elements is to identify a responsible party in the context of Texas oil and natural gas production the last Lease Holder on file is the responsible party, while "Surface Managing Entity" and "Subsurface Managing Entity" are not

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terms used in Texas to identify the responsible party. We recommend adjusting these data elements to allow states to use the terminology appropriate to their jurisdiction to identify a responsible party.

Draft element (m) recommends training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation. We recommend that the guidance account for workforce development programs that may already be in place with other, existing funding sources, rather than imply that this funding should be used for workforce development.

SECTION V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

Section V recommends a best practice for pre- and post-plugging measurement or estimation of air and water pollution. The narrative in subsection I. states that "As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions." Though the highlighted language appears in a section of the guidance that is recommended, but not required, the vague statement of expectations should be clarified.

Verifying the lack of groundwater contamination, in particular, may require extensive monitoring measures. We recommend that the highlighted language be cut and revised to read "to verify the lack of releases of oil, gas, water, or other fluids at the surface."

With the scale of the Texas well plugging program and the proximity of orphaned wells to actively producing wells measurement of emissions is not always accurate, appropriate, or practicable.

The draft guidance document encourages states to follow a third-party methodology for emissions measurement and verification, such as the American Carbon Registry's Methodology for the Quantification, Monitoring, Reporting and Verification of Greenhouse Gas (GHG) Emissions Reductions from the Plugging Abandoned & Orphaned Oil and Gas (AOOG) Wells (once finalized). This draft methodology outlines the eligibility requirements and accounting framework for the creation of carbon offset credits from the reduction in methane emissions by plugging abandoned and orphaned wells. The proposed methodology requires numerous emissions measurements for both pre-plugging and post-plugging conditions for every well in the project boundary:

For pre-plugging monitoring,

- a 24-hour continuous-in-time measurement at least one to two months before plugging;
- a second continuous-in-time measurement one to two months after the first; and
- one point-in-time measurement at least six days before or after the continuous-in-time measurements.

For post-plugging measurements,

- a 24-hour continuous-in-time measurement at least three days after the plugging date;
- a second continuous-in-time measurement in the second or third month post-plugging;
- one point-in-time measurement at least six days before or after the continuous-in-time measurements; and
- one additional methane assessment is required approximately five years after plugging, which can be done with a handheld sensor or multi-gas sensor with a lower detection

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> limit of 2 ppmv methane. If methane concentrations exceeding 3 ppmv are detected during the test, methane flow rate using a chamber-based method shall be used.

Additional sets of measurements are required until methane emission rates are stabilized.

This emissions measurement protocol would add significant costs to the plugging effort. State agency personnel (or its contractors) would have to must visit each well site a minimum of eleven times in addition to the time spent on actual well plugging and site remediation., adding greatly to the cost of plugging each well. Most state oil and gas regulatory agencies are authorized to regulate emissions of methane and hydrogen sulfide for the purposes of prevention of waste of natural resources and protection of human health and safety. They are not generally authorized under the federal Clean Air Act for the regulation of air quality and, therefore, do not have the expertise, equipment, or contracts for such monitoring. As a result, overly complex and redundant monitoring requirements will result in fewer wells will being plugged with these federal funds.

Before the next grant guidance documents are drafted, we request that DOI clarify whether it will allow verification that the plugging reduced emissions (VOCs) or whether it will require that the state quantify (measure) the actual reduction using flow rate. The added cost of "plugging" will greatly increase if the states are required to measure the actual reduction of methane using flow rate.

The same is true with respect to measurement or estimation of the current contamination of surface water and groundwater. Drilling, completion, and monitoring of monitor wells would greatly increase the time and expense of well plugging and decreased the number of wells plugged with the limited federal funds.

The cost of monitoring activities was not included in the Commission's Notice of Intent to Apply for Formula Grants, and the cost per well will increase substantially given these monitoring requirements.

SECTION VI. FEDERAL AND TRIBAL COORDINATION

Section VI places the onus on states to contact relevant offices of Tribal or Federal land management agencies. We recommend that DOI coordinate this outreach initially. The burden should not be on the state as they implement this program. The Federal agency should be responsible for data collection at these sites.

SECTION VII. REPORTING REQUIREMENTS

Subsection E, data collection and reporting, lists data elements that will be incorporated in the guidance being developed for the forthcoming Formula grants and Performance grants. We recommend that DOI meet with the states before drafting future guidance to discuss these data elements.

SECTION VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

We request DOI provide states with guidance on the well plugging and site restoration and remediation activities that are considered "construction, alteration, or repair" under Davis-Bacon. DOI should clarify the Davis-Bacon requirements relative to well plugging and any differences with site remediation work.

Subsection C requires states to provide the federal awarding agency access to project sites, "to the extent necessary and appropriate". The Railroad Commission has no authority to grant access to private property to a federal agency.

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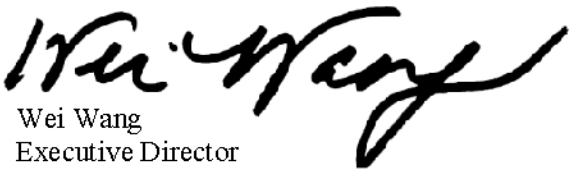
We recommend that Item G be revised to make it explicit that IIJA section 70917(c) excludes cement and cementitious materials from Buy American clauses.

We look forward to working with you as implement this once in a lifetime opportunity to alleviate potential threats to surface and subsurface waters that orphaned wells may pose by providing a pathway for the migration of fluids from hydrocarbon bearing zones into formations containing usable quality water and into surface waters, while also alleviating any potential fugitive emissions from orphaned wells located across Texas. Thank you for the opportunity to provide comments on the draft State Initial Grant Guidance for well plugging funding provided under the Infrastructure Investment and Jobs Act.

Please contact Colleen Forrest at (512) 463-2645 or colleen.forrest@rrc.texas.gov with any questions you may have related to the Commission's Infrastructure funding implementation efforts. Thank you again for the opportunity to share our thoughts.

Sincerely,



Wei Wang
Executive Director

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From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, April 05, 2022 5:37 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: Fwd: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program
Attachment(s): "NMOCD Comments on - State-initial-grant-guidance-bil FINAL.docx"

Amy- Attached/below are our comments.

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From: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Sent: Wednesday, March 30, 2022 6:40 PM
To: orphanedwells, DOI <orphanedwells@ios.doi.gov>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: NM Comments on Draft Initial Grant Guidance for BIL Plugging Program

To Whom It May Concern:

Enclosed please find the New Mexico Energy, Minerals and Natural Resources Department (EMNRD), Oil Conservation Division's (OCD's) comments on the Department guidance on the implementation of the Bipartisan Infrastructure Law plugging program Initial Grant. OCD is responsible for regulating oil and gas production statewide under the New Mexico Oil and Gas Act. Since 1935, the Oil and Gas Act has required that oil and gas production is undertaken responsibly to protect oil reserves, the rights of mineral owners, and the environment. OCD oversees more than 58,000 producing wells, a number that has grown rapidly since 2015 with the historic drilling boom New Mexico and the United States has seen because of advances in horizontal well drilling. In 2021, New Mexico became the second largest oil producer in the U.S.

Under the Oil and Gas Act inactive wells must be plugged to protect oil and gas reserves, mineral rights and New Mexico's unique environment. While many of those wells are plugged by oil and gas operators, when companies become insolvent, the state must step in. OCD does this through its established plugging program that currently plugs an average of 50 wells per year based on available resources. To implement this program, OCD hires local oil and gas service companies to perform the work, directly injecting money into the local economy. With additional resources OCD's plugging program can be scaled. The additional resources provided by the BIL will help OCD scale this program and we offer the attached comments to help ensure successful implementation that respects each states' unique circumstances.

We are open to discussing this issue further but believe it is critically important that plugging responsibility be properly allocated between the state, federal and tribal programs under the Act, please contact Adrienne Sandoval, Oil Conservation Division Director at adrienne.sandoval@state.nm.us, or Dylan Fuge, General Counsel, NM Energy Minerals and Natural Resources Department, at dylan.fuge@state.nm.us.

Regards,

Dylan M. Fuge
General Counsel | Energy, Minerals & Natural Resources Department
1220 South St. Francis Drive | Santa Fe, NM 87505
P: (505) 490-2551 (cell)
E: dylan.fuge@state.nm.us
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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private surface and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

Commented [A1]: OCD joins in IOGCCC's comments on this provision that additional guidance/training would be helpful on funding draw down.

Commented [A2]: As OCD had previously noted, we did not include such wells in the numbers reported in our NOI. Does the Department have plans to collect updated data given this clarification? Since more than half of NM's overall well count is federal, this delta could be significant.

Commented [A3]: OCD already successfully plugs federal wells consistent with federal standards so this obligation is workable. However, often times plugging federal wells is delayed by the extensive process BLM uses to identify orphan wells. OCD believes its formal administrative hearing process against the most recent registered operator is sufficient to identify inactive wells that have been orphaned and properly subject to a state plugging order. If BLM, wants to incentivize states to plug split estate wells it should rely on state identification processes. ¶
¶
A related question arises though in split estate lands, because the minerals are federal BLM is the bond holder. If a state were to plug on such lands there would need to be a mechanisms for any existing federal bonds to be forfeit by the BLM with proceeds transferred to the state.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants for any of the following purposes~~to~~:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

Commented [A4]: OCD recommends that the definition track verbatim the term as defined in the BIL. The language here is close, but do not believe there needs to be any deviation.

Commented [A5]: OCD joins in IOGCCC's general comments on this section and would appreciate clarification on application of funds to pre-award costs.

Commented [A6]: Proposed language is from BIL.

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

Commented [A7]: OCD is not certain this description adequately describes potential scenarios given the diversity of Indian land ownership type (e.g., allotted, restricted fee). We would encourage a double check. ¶
¶
Also, we assume non-trust lands are just private lands not withstanding the highlighted language or the fact they may be owned by a tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Commented [A8]: OCD recognizes the importance of prioritizing wells sites to address those presenting greater risks. ¶
¶
We want to encourage DOI to not be overly prescriptive in this space as each state has unique procedural requirements we must follow. ¶
¶
For example, in NM our process requires us to take an operator through a formal administrative enforcement type hearing to obtain a plugging order.

Commented [A9]: See prior comment.

Commented [A10]: OCD recognizes the critical importance of addressing methane emissions in the oil patch, as evidenced by our nation leading waste rules. However, in this context we encourage DOI to maximize flexibility - e.g., rather than well specific measurements in each instance can we use emissions factors or representative measurements from other wells in the same field. Well specific measurements may slow down plugging pace . We also urge caution in requiring reliance on draft protocols that have not yet been robustly deployed at scale. Such methodologies may not work in all environments and tend to favor larger plugging operators over smaller ones.

Commented [A11]: OCD encourages DOI to modify this requirement to measure and track ground and surface water contamination to where necessary/appropriate. OCD investigates ground and surface when and where circumstances dictate (e.g., evidence of releases or other indicia of contamination). Requiring it in all instances potentially risks unnecessary monitoring well construction, which increases disturbances and drives up plugging costs.

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;

(k) How the State will use funding to locate currently undocumented orphaned wells;

(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;

(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;

(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;

(r) A work schedule covering the period of performance of the Initial grant; and

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

Commented [A12]: See general comment above about prioritization. States are obligated to follow their existing statutes rules and regulations, which will facilitate public participation in various ways/times in the plugging process. A changed or standardized approach may require states to undertake rulemakings or seek legislative updates which can be time consuming and may inhibit the funding from being spent within the year time frame.

Commented [A13]: OCD recommends rephrasing this to state "If the state will use funding to locate currently undocumented wells, how will it be used?"

Commented [A14]: OCD supports this objective, but notes that it may often be outside the jurisdiction of entities charged with plugging authority under state law. OCD intends to partner with other state agencies to support such programs to the extent permitted by law.

Commented [A15]: See prior comment, also to some extent this provision overlaps with (m) above, consider consolidating, (m), (n) and (o).

Commented [A16]: See prior comment regarding prioritization. NM recognizes the importance of addressing these sites in underserved communities, but this is one of many factors we have to consider as part of our process.

Commented [A17]: OCD is requests clarity on what is being requested by this line item. A work schedule may vary depending on circumstances that are outside of OCD's control, we request this be a "proposed" work schedule that will provide flexibility when and if changes need to be made.

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D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

Commented [A18]: See comments above re: methane measurement and ground water contamination.

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

Commented [A19]: As noted above, we encourage DOI to adopt flexibility with respect to this measurement guidance. There are implementation risks with pointing to a methodology that has not yet be finalized or deployed at scale. ¶
¶
Second, the more prescriptive the methodology required, the greater the risk you disqualify plugging crews from smaller local companies. ¶
¶
OCD encourages other models, e.g., emission factors/assumptions or allowing measurements from one well in a field being plugged to be extrapolated to other wells in the same field. ¶
¶
For example, OCD is currently in the middle of a plugging a large field where an operator discontinued operations in 1984. The field follows a similar area/basin and the orphaned wells are all of a similar vintage a design. Rather then measuring emissions at every single well, it would seem reasonable to measure a subset to come up with a reasonable estimate that can be utilized for the remainder of the wells in the field.

Commented [A20]: As demonstrated by our existing work plugging wells on federal lands, OCD existing program can meet these standards. DOI should affirmatively stated that existing programs with plugging standards are presumed to suffice and should not require verbatim compliance with BLM standards/program, except when a state is plugging a well subject to federal jurisdiction on the Fed's behalf.

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Commented [A21]: We echo IOGCC's comments that these interactions should be coordinated by DOI.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

Commented [A22]: OCD supports the need to collect data to show success and accountability within the program. However, we note, that particularly in the first couple quarters as states ramp up their programs, that there may be less well plugging and remediation work, with numbers increasing as time goes on. NM is working now to scale its program, but that work, particularly contract updates takes time.

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Commented [A23]: While some large multi-national plugging contractors may have the ability to provide this granular information, many smaller, local plugging companies likely will not. Invoicing information is typically aggregated by the number of hours total not broken down by specific employee and NAICS code. This granular information request may disadvantage local companies who hire workers in local communities. OCD recommends requesting total hours worked per site as an aggregate number. ¶
¶
Alternatively, we could collect periodic information from our plugging contract (e.g., annual updates on employee count, plugging crew composition, and hours spent on a typical project).

Commented [A24]: This data element may be challenging for States to obtain as we don't have specific population data of surrounding structures. We can more readily identify structures within the immediate area or identify if the well is in city/town. OCD recommends that this be a more general question such are there occupiable structures in the surrounds half mile radius.

Commented [A25]: Similar to comment above, OCD recommends that this be a yes or no check box.

Commented [A26]: OCD suggests that there be a caveat to this request, such as "if surface water contamination was identified, then was surface waste contamination remediated"

Commented [A27]: Same comments as on surface water with the additional highlight that groundwater contamination could take years to remediate so a response of "in progress" should be allowed.

Commented [A28]: OCD encourages that the practices for attainment of regrowth should follow either state land provisions or recommendations by land owners. Holding a site for a period of years prior to releasing it may hold up future leasing of the site by a state land agency or private land owner.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

Commented [A29]: OCD recognizes the importance of importance of having access to sites where federal funds are being used. However, OCD suggests that this requirement be revised to make clear that in all instances site visits be coordinated in conjunction with state staff prior to visiting. This is particularly true on private lands. While state personnel have the right to enter and inspect oil and gas sites on private land, we work though private land owner as necessary to obtain the necessary authorizations. Those access rights are not automatically extended to any other entity affiliated with the state.

Commented [A30]: See comment above on site prioritization and disadvantaged communities.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

Commented [A31]: OCD supports the buy American Provision in the BIL. However given supply chain issues, it would be helpful to get some guidance on what constitutes manufactured products and construction materials.¶
¶
It would also be helpful if DOI kept track of waivers currently available for any products that may be necessary during the plugging process. ¶
¶
For example, with supply chain problems over the last year, plugging contractors have found it increasingly challenging to find cement. While what is available may be manufactured in the U.S., with limited options it also may not be. Without these critical materials plugging and remediation work cannot be undertaken. It is critical states have easy access to the latest information.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Wednesday, July 07, 2021 6:29 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Charlie Burd <cburd@gowv.com>; Jeremy Price <jeremy.price@alaska.gov>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn Helms <lhelms@nd.gov>; Wayne Christian <wayne.christian@rrc.texas.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>; Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Subject: In follow-up to today's discussions
Attachment(s): "Preliminary Agenda.docx","E.W. Marland Award 1994 - Current.doc"

As promised, attached are the preliminary agenda for the August special meeting and the list of past Marland Award recipients.

Please let me know next week if you have any suggestions on the agenda. We'll discuss candidates for the Marland Award at the Steering Committee meeting next month.

Thanks.

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RECIPIENT LIST
E.W. MARLAND AWARD

The Interstate Oil and Gas Compact Commission established the E.W. Marland Award in 1994 to recognize an outstanding state regulator. This prestigious award is named for the 10th governor of Oklahoma, who led in chartering the compact in 1935.

Paul H. Roberts (NE)	1994
Mack Wallace (TX)	1995
William J. Murray, Jr. (TX)	1996
Donald B. Basko (WY)	1997
William J. LeMay (NM)	1998
Wesley D. Norton (ND)	1999
William J. Wynne (AR)	2000
William F. Guerard, Jr. (CA)	2001
Donald F. Oltz (AL)	2002
Fred V. Steece (SD)	2003
Lowell P. Braxton (UT)	2005
Donald J. Likwartz (WY)	2008
Lawrence E. Bengal (AR)	2009
Victor Carrillo (TX)	2010
Berry “Nick” Tew, Jr. (AL)	2013
William H. Sydow (NE)	2014
John Baza (UT)	2015
Lynn Helms (ND)	2016
Cathy Foerster (AK)	2018
Hal Fitch (MI)	2019

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IOGCC Special Meeting
Colorado Springs, CO
Preliminary Agenda

Sunday, August 15, 2021

Time	Event	Location
5:30 PM - 6:30 PM	**Reception**	**TBD**
6:30 PM - 8:00 PM	**Welcome/Dinner**	**TBD**

Monday, August 16, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**TBD**
8:30 AM - 12:00 PM	**IOGCC Business**	**TBD**

Introductions

Updated Official Representative Handbook

Process for Committee Appointments/Directory Updates

Discussion of Assessments

Other Administrative Items

12:00 PM - 2:30 PM	**Lunch/Tour**	**Garden of the Gods**
2:30 PM - 5:00 PM	**IOGCC Business**	**TBD**

Plan for Strategic Plan Update

Review of Member Survey and Key Issues

Progress on Key Issues (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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Tuesday, August 17, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**TBD**
8:30 AM - 12:00 PM	**IOGCC Business**	**TBD**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs

Idle/Orphan Wells

Federal Updates (Legislation, MOUs)

Preparations for Annual Conference

12:00 PM	**Adjourn**

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From: Royer, Brian <BRoyer@dnr.IN.gov>
Sent: Wednesday, March 30, 2022 4:33 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Mueller, Ryan <RMueller@dnr.IN.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Indiana DNR comments on initial grant guidance
Attachment(s): "Guidance comments.pdf","Indiana Guidance Comments.pdf"

Please accept the two attached documents as Indiana DNR's comments on the draft grant guidance.

Thanks,

Brian Royer
Orphan Well Manager
Indiana Department of Natural Resources
Division of Reclamation
317-417-6556
broyer@dnr.IN.gov
www.dnr.IN.gov

** Please let us know about the quality of our service by taking this brief* customer survey.

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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DNR Indiana Department of Natural Resources

Eric Holcomb, Governor
Daniel W. Bortner, Director

14619 W. St. Rd. 48
Jasonville IN 47438 9517
March 30, 2022

Mr. Steve Feldgus
Deputy Assistant Secretary for Land and Minerals
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Mr. Steve Tryon
Director, Office of Environmental Policy and Compliance
U.S. Department of Interior
1849 C Street NW
Washington, DC 20240

Re: Initial Grant Guidance

Dear Sirs:

The Indiana Department of Natural Resources, Division of Reclamation's Oil and Gas Section has reviewed the draft of the initial grant guidance and offers the attached comments for your consideration. Our main objective is in line with the law to remediate orphan wells in Indiana to protect communities from current or future environmental harm or adverse impacts to human health and we hope that our comments are useful as we move forward.

If you have any questions or need further information, please contact me at (812)665-2207 or sweinzapfel@dnr.in.gov.

Sincerely,

Steven J. Weinzapfel
Director
Division of Reclamation

SJW/BR

cc: Ryan Mueller

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NM-EMNRD-22-0512-B-001049

Slides for SEG/SPE Regulator Session

Please provide info on the following:

- Your name, title, organization
- Map of your State/province with IS areas set out or identified
- Unique challenges for your jurisdiction
- One tip or success worth noting

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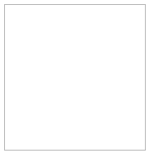
From: Offices of Pres. Richard Jackson & Julie Moore <AdvocateAction@oxy.com>
Sent: Tuesday, August 31, 2021 10:00 AM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: Invitation - Oxy Reception at the Balloon Fiesta



Oxy invites you and a guest to join us at the 2021 Albuquerque International Balloon Fiesta on Saturday, October 2nd. We will be hosting a reception on the Corporate Village Area Fiesta Deck overlooking the balloon field and the fireworks show. Direct access to the balloon field will be available. Hors d'oeuvres, cocktails, and refreshments will be served.

Parking information, transportation options from Santa Fe and Albuquerque, and how to obtain your event passes will be provided closer to the Balloon Fiesta. To ensure your spot, please RSVP as soon as possible.

Date: Saturday, October 2nd, 2021
Time: 4:30 p.m. – 9:00 p.m.
Location: Fiesta Deck in the Corporate Village Area - 9401 Balloon Museum Dr NE, Albuquerque, NM 87113
Attire: Casual (Note - it can be cold. Heaters will be provided, but please dress accordingly.)
Required RSVP : Click Here

We look forward to hosting you on Saturday, October 2nd.

Regards,
- Richard Jackson, President of Onshore Resources & Carbon Management
- Julie Moore, Senior Director of State Government Relations

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INTERSTATE Oil & Gas COMPACT COMMISSION

MEMORANDUM

TO: Official Representatives of IOGCC Member States, Associate Member States, and Affiliates

FROM: Lori Wrotenbery, Executive Director LW

RE: Invitation to Strategic Planning Session at the 2021 Annual Conference in Santa Fe, New Mexico, November 7-9, 2021

DATE: October 22, 2021

You are invited to attend a strategic planning session to be held during the Annual Conference in Santa Fe. Participation in this session will be limited to official representatives or their designated alternates.

The strategic planning session will be conducted in two parts at our conference hotel, the Inn at Loretto. We will meet on Sunday, November 7th from 3:00-5:30 PM MT in the Zuni Room. After breaking for the opening reception, we will reconvene the next morning on Monday, November 8th from 7:30-9:00 AM MT in the Tesuque Room.

If you will not be able to travel to Santa Fe but wish to attend remotely, please let me know. We will send you an invitation to join via Zoom.

Bob Harris, Certified Association Executive, will facilitate the discussion and help us complete our strategic plan. Bob is renowned for the work he does with the boards of nonprofits and other organizations, and we are grateful to have his help.

Please review the attached materials in preparation for the strategic planning session:

- Bob's two-pager on strategic planning, which was previously distributed at the Special Meeting in Colorado Springs,
- an updated version of the presentation given in Colorado Springs on the results of our member survey, and
- a discussion draft of a strategic plan developed with input from the Steering Committee. Please note that we offer the draft strategic plan to stimulate discussion in Santa Fe. It has not been approved at any level of the organization.

Let me know if you have any questions. We are looking forward to seeing everyone in Santa Fe.

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IOGCC ERRT COMMITTEE STATE & PROVINCIAL SURVEY FOR KNOWLEDGE-SHARING PROJECT

The ERRT committee is once again asking member states and provinces to identify priority technical, engineering, geophysical, geological, and operational issues for research and feedback from technical societies.

As always, your ideas are greatly appreciated as this will be used to develop our 2022 list of topics that will be used to solicit technical societies for feedback and resources, develop a list of subject matter experts, program a series of topical webinars, and be reviewed at the Annual Business Meeting in May 2022.

Thanks to all of you who responded to this survey in previous years. We understand that topics may stay the same from year to year. We would appreciate your responses even if they are similar to previous submissions along with any details you have, so that we can best tailor programs and materials for you.

Member State or Province:

State/Provincial point of contact for ERRT:

What are the top 3 technical issues in your jurisdiction currently?

1. Issue: _____

- **What technologies regarding this issue are of interest to you?**
- **What kind of information and/or technologies would most help you respond to this issue?**
- **Why is this a priority in your jurisdiction?**

2. Issue: _____

- **What technologies regarding this issue are of interest to you?**

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- **What kind of information and/or technologies would most help you respond to this issue?**

- **Why is this a priority in your jurisdiction?**

3. Issue: _____

- **What technologies regarding this issue are of interest to you?**

- **What kind of information and/or technologies would most help you respond to this issue?**

- **Why is this a priority in your jurisdiction?**

Please list any additional issues of concern you would like to note below:

_____

In the past year, have you or your team 1) used technical material on the ERRT regulator-only portal, 2) contacted the listed subject matter experts, or 3) attended ERRT topical webinars?

Webinars are an important part of the project's content delivery program. What topics would you like future webinars to cover, and do you have any suggestions for formatting?

This project is designed to provide regulators with resources to respond to regulator-identified emerging technical challenges, with content and support from technical societies. Do you feel this has been accomplished? If not, what else could we do to accomplish this? In particular, we are interested in your suggestions on the portal, on

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the Subject Matter Experts (including nominations), and on webinar topics/presenters.

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From: Zoom <no-reply@zoom.us>
Sent: Wednesday, September 08, 2021 5:45 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: IOGCC General Overview Session - Pending Orphan Well Legislation Confirmation

Hello Adrienne Sandoval,

Thank you for registering for IOGCC General Overview Session - Pending Orphan Well Legislation. You can find information about this meeting below.

IOGCC General Overview Session - Pending Orphan Well Legislation

Date & Time	Sep 9, 2021 01:00 PM Central Time (US and Canada)
Meeting ID	899 1944 4195
Passcode	042645

Please submit any questions to: amy.childers@iogcc.state.ok.us.

You can cancel your registration at any time.

WAYS TO JOIN ZOOM

1. Join from PC, Mac, iPad, or Android

Join Meeting

If the button above does not work, paste this into your browser:

https://us02web.zoom.us/w/89919444195?tk=MK6kFappfHuxSExkJqfuHzPqPuoN6XcZlkUmK6aWNlQ.DQMAAAAU753U4xZnSkxScnEwdFFHSzBBWHo0a1hFQmR3AAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=dGI1Mm9Ga3hTSUtnUis5a0Z1YzVZZz09

To keep this meeting secure, do not share this link publicly.

Add to Calendar(.ics) | Add to Google Calendar | Add to Yahoo Calendar

2. Join via audio

One tap mobile:	US: +12532158782,,89919444195#,,,,*042645# or +13462487799,,89919444195#,,,,*042645#
Or dial:	For higher quality, dial a number based on your current location. US: +1 253 215 8782 or +1 346 248 7799 or +1 669 900 9128 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656
Meeting ID:	899 1944 4195
Passcode:	042645

International numbers

Thank you!

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Subject: IOGCC General Overview Session - Pending Orphan Well Legislation
Location: https://us02web.zoom.us/w/89919444195?
tk=MK6kFappfHuxSExkJqfuHzPqPuoN6XcZIkUmK6aWNIQ.DQMAAAAU753U4xZnSkxScnEwdFFHSzBBWHo0a1hFQmR3AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=dGI1Mm9Ga3hTSUtnUis

Start: Thursday, September 09, 2021 2:00 PM EDT
End: Thursday, September 09, 2021 3:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

Interstate Oil & Gas Compact Commission is inviting you to a scheduled Zoom meeting.

Join Zoom Meeting
https://us02web.zoom.us/w/89919444195?
tk=MK6kFappfHuxSExkJqfuHzPqPuoN6XcZIkUmK6aWNIQ.DQMAAAAU753U4xZnSkxScnEwdFFHSzBBWHo0a1hFQmR3AAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=dGI1Mm9Ga3hTSUtnUis5a0Z1YzVZZz09

Meeting ID: 899 1944 4195
Passcode: 042645
One tap mobile
+12532158782,,89919444195#,,,,*042645# US (Tacoma)
+13462487799,,89919444195#,,,,*042645# US (Houston)

Dial by your location
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 669 900 9128 US (San Jose)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 646 558 8656 US (New York)
Meeting ID: 899 1944 4195
Passcode: 042645
Find your local number: https://us02web.zoom.us/u/kZUFYZAgK

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Infrastructure Investment and Jobs Act
Section 40601. Orphaned Well Site Plugging, Remediation, and Restoration

Guide for States
Prepared by the Interstate Oil and Gas Compact Commission (IOGCC)

Provisions generally applicable to state grants:

- A list of allowable uses of grant funds appears in Section 349(c)(2).*
- States may use up to 10% of grant funds for administrative purposes. See Section 349(c)(2)(B).
- States use their own definitions and procedures for plugging and remediation. See for example Section 349(a)(5) and (c)(4)(B).
- The Secretary of Interior administers the grants, but the Secretary's discretion is limited. See for example Section 349(c)(3)(B), (4)(C), and (5)(C).
- Davis-Bacon Act prevailing wage provisions apply to grant-funded contracts. See Section 41201 of Infrastructure Investment and Jobs Act.

Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Initial Grants ($775 million appropriation)						
Larger initial grant	Up to $25 million.	349(c)(3)(A)(i)	State estimates the number of jobs that will be created or saved and certifies that state: • Is an IOGCC member, • Has at least one documented orphaned well, and	State must submit request for funding within 180 days of enactment.		

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
			• Will obligate at least 90% of funds to grants or contracts within 90 days of receipt.			
Smaller initial grant	Up to $5 million. Not subject to general 10% limitation on administrative costs.	349(c)(3)(A)(ii)	State does not receive a grant under clause (i) and certifies that state: • Has a program or the capacity to initiate a program, or • Will use funds to develop an application for formula grant or performance grant.			
General provisions for initial grants		349(c)(3)(B)-(D)		Secretary must distribute funds within 30 days after receipt of request.	State must return unobligated funds one year after date of receipt. Appropriated funds remain available to Secretary until	Within 15 months of receipt of funds, state must report to Secretary how funds were used in accordance with state's certification.

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
					September 30, 2030. See 349(h).	
Formula Grants ($2 billion appropriation)						
	Formula determined by Secretary accounting for these factors: • Oil and gas job losses between 3/1/2020 and date of enactment. • Number of documented orphaned wells and projected costs of plugging and remediation.	349(c)(4)	Act specifies contents of application. See 349(c)(4)(B).	State must submit notice of intent to apply within 45 days of enactment. Notice must include information on factors to be used by Secretary to determine formula. Within 75 days of enactment, Secretary must publish amount each state is eligible to receive. Application period is opened ended. Secretary must issue funds within 60 days of receiving complete application.	State must return unobligated funds five years after date of receipt. Appropriated funds remain available to Secretary until September 30, 2030. See 349(h).	

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Performance Grants ($1.5 billion appropriation)						
General provisions for performance grants		349(c)(5)	Act specifies contents of application. See 349(c)(5)(B).	States may submit applications beginning 180 days after receipt of initial grant. Application period is open ended. Secretary must issue funds within 60 days of receiving complete application.	Appropriated funds remain available to Secretary until September 30, 2030. See 349(h).	Performance grants have a 10-year lookback period. See 349(c)(5)(E)(i) and (F)(i). Regulatory improvement grants have a 10-year clawback provision. See 349(c)(5)(E)(iii).
Regulatory improvement grants	Up to $20 million	349(c)(5)(E)(i)(I)	State strengthened plugging standards and procedures.			
	Up to $20 million	349(c)(5)(E)(i)(II)	State reduced future orphaned well burdens.			

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Matching grants	Total of $30 million	349(c)(5)(F)	State increased amount of state funds to be expended on plugging and reclamation.			Not more than one grant per fiscal year 2022 through 2031.

[*] Under Section 349(c)(2)(A), a state may use grant funding for any of the following purposes:

- To plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land.
- To identify and characterize undocumented orphaned wells on State and private land.
- To rank orphaned wells based on factors including public health and safety; potential environmental harm; and other land use priorities.
- To make information regarding the use of funds received under this subsection available on a public website.
- To measure and track emissions of methane and other gases associated with orphaned wells, and contamination of groundwater or surface water associated with orphaned wells.
- To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.
- To remediate land adjacent to orphaned wells and decommission or remove associate pipelines, facilities, and infrastructure.
- To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.
- To administer a program to carry out any of these activities, provided that, except for an initial grant up to $5 million, a State may not use more than 10 percent of the funds received during a fiscal year for administrative costs.

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From: Zoom <no-reply@zoom.us>
Sent: Wednesday, September 08, 2021 6:17 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: IOGCC Session Two - Details of the Formula Grant Provisions for the Pending Orphan Well Legislation Confirmation

Hello Adrienne Sandoval,

Thank you for registering for IOGCC Session Two - Details of the Formula Grant Provisions for the Pending Orphan Well Legislation. You can find information about this meeting below.

IOGCC Session Two - Details of the Formula Grant Provisions for the Pending Orphan Well Legislation

Date & Time	Sep 15, 2021 10:30 AM Central Time (US and Canada)
Meeting ID	813 4715 2301
Passcode	273445

Please submit any questions to: amy.childers@iogcc.state.ok.us.

You can cancel your registration at any time.

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Meeting ID:	813 4715 2301
Passcode:	273445

International numbers

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Subject: IOGCC Session Two - Details of the Formula Grant Provisions for the Pending Orphan Well Legislation
Location: https://us02web.zoom.us/w/81347152301?tk=1uOZpMZz2gxF6_w3nB9rqA3BvY-Okk9dcsmgFE8NX3k.DQMAAAAS8KsJrRZMNS01YkpmRlNnLWZwSzhlMWN5SzdnAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=VjJDdjQ2dHlicVVxbGdmLzlRZTdXdz09

Start: Wednesday, September 15, 2021 11:30 AM EDT
End: Wednesday, September 15, 2021 1:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

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Meeting ID: 813 4715 2301
Passcode: 273445
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Meeting ID: 813 4715 2301
Passcode: 273445
Find your local number: https://us02web.zoom.us/u/kb2a9JdMnt

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From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Friday, August 06, 2021 4:20 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; Charlie Burd <cburd@gowv.com>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; Jeremy Price <jeremy.price@alaska.gov>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Russell Retherford <rretherford@dnr.in.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmondmt@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Julie M. Murphy <julie.murphy@state.co.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Lucy Blocker <lucy.blocker@state.sd.us>; Adam Peltz <apeltz@edf.org>; Leslie Savage <Leslie.Savage@rrc.texas.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Kimberly Wurtz <kimberly.a.wurtz@gmail.com>; Virginia Hullinger <V.Hullinger@occemail.com>; Haarsager, Katie A. <kahaarsager@nd.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Bea Ann Phillips <bphillips@bplanning.net>
Subject: IOGCC Special Meeting, August 15-17, 2021, Colorado Springs, CO
Attachment(s): "Special Meeting Logistics.pdf","Draft Agenda.pdf"

Dear Participants,

The special meeting in Colorado Springs is about a week away. Attached is a sheet of logistical information along with the latest draft of the meeting agenda. Please let us know if you have any questions we have not addressed in these materials.

We are so excited about seeing everyone!

Best regards,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

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IOGCC Special Meeting
Colorado Springs, CO
Draft Agenda

Sunday, August 15, 2021

Time	Event	Location
6:00 PM - 6:30 PM	**Reception**	**Remingtons**
6:30 PM - 8:00 PM	**Welcome/Dinner**	**Remingtons**

Monday, August 16, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**Grand Rivers Room**
8:30 AM - 9:45 AM	**IOGCC Business**	**Grand Rivers Room**

Introductions

Update of Official Representative Handbook (Draft)

Process for Committee Appointments/Directory Updates

9:45 AM - 10:00 AM	**Break**	
10:00 AM - 11:15 AM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Assessments

Other Administrative Items

11:15 AM - 12:00 PM	**Lunch**	**Grand Rivers Terrace**
12:15 PM - 2:15 PM	**Guided Tour by Bus**	**Garden of the Gods**
2:30 PM - 3:45 PM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Resolutions Process

Review of Progress on Key Issues Identified in Medora (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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3:45 PM - 4:00 PM	**Break**	
4:00 PM - 5:15 PM	**IOGCC Business**	**Grand Rivers Room**

Plan for Strategic Plan Update

Review and Discussion of Prior Goal Statements and 2021 Member Survey Results

Tuesday, August 17, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**Grand Rivers Room**
8:30 AM - 10:00 AM	**IOGCC Business**	**Grand Rivers Room**

Orphan Well Funding Legislation

Other Federal Updates (Legislation, Regulation, Memoranda of Understanding)

10:00 AM – 10:15 AM	**Break**	
10:15 AM - 11:45 PM	**IOGCC Business**	**Grand Rivers Room**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs

Energy Resources, Research and Technology—Adam Peltz, Vice-Chair
Environment and Safety—Leslie Savage, Chair and Robyn Strickland, Vice-Chair
Legal and Regulatory Affairs—Kimberly Wurtz, Vice-Chair
Public, Coastal, and Tribal Lands—Virginia Hullinger, Vice-Chair
Public Outreach—Katie Haarsager, Vice-Chair

Preparations for Annual Conference

11:45 AM - 12:00 PM **Wrap Up and Adjourn**

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IOGCC SPECIAL MEETING
COLORADO SPRINGS, CO

August 15-17, 2021

LOGISTICS

We are looking forward to seeing you in Colorado Springs! Here is some information we gathered to help you prepare for the trip. If you have logistical questions that are not addressed here, please contact Bea Ann Phillips at bphillips@bplanning.net.

1. Meeting Location

Cheyenne Mountain Resort
3225 Broadmoor Valley Rd
Colorado Springs, CO 80906
Telephone: 719-538-4000
cheyennemountain.com

Check-in time is 4:00 PM and check-out time is 11:00 AM.

We have confirmed that everyone receiving this information has a room reservation. Any special requests regarding accommodations not previously specified should be communicated as soon as possible to Bea Ann Phillips by email.

All meeting sessions will take place in the Grand Rivers Room at the resort. Breakfast and lunch on Monday and breakfast on Tuesday will be served in adjacent spaces.

2. Ground Transportation

From the airport to Cheyenne Mountain Resort:
There is no shuttle to the resort. Cabs are available at the airport. Uber and Lyft are also options; however, you will need to allow ample time for them to arrive. Ride sharing services are experiencing delays across the country.

Back to the airport:
IOGCC is arranging a shuttle back to the airport for those interested. It will depart promptly at 12:15 PM on Tuesday and you will need to let us know in advance if you would like to be on it. If there is demand for an additional shuttle at a slightly later time, we will arrange one.

Monday excursion to Garden of the Gods:
IOGCC has engaged a bus and guide for this tour.

Monday evening:
IOGCC is arranging a shuttle between Cheyenne Mountain Resort and downtown Colorado Springs. The shuttle will leave the resort at 6:00 PM and return at 9:00 PM.

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3. Dress Code

The attire for all meetings and meals is mountain casual. Be comfortable. Temperatures in Colorado Springs in August typically range from highs in the 80s to lows in the 50s.

4. Altitude

Colorado Springs sits at 6,000 feet (higher than Denver) and altitude sickness can creep up on you. It's important to stay well hydrated, monitor alcohol and food consumption, and take it easy when you arrive.

5. Covid Protocols

The hotel is not currently requiring masks for guests. However, all public transportation, including Uber, cabs, and the bus we will use for our Monday afternoon excursion, do require masks. We will keep you informed if protocols change between now and then.

6. Meals

IOGCC will provide dinner on Sunday, August 15, breakfast and lunch on Monday, August 16, and breakfast on Tuesday, August 17. If you have any food allergy or other special dietary need, please inform Bea Ann Phillips by email as soon as possible.

The reception and dinner on Sunday will be in Remingtons on the Lobby Level of the resort. Let Bea Ann know if you will not be joining us. We need a headcount for that meal. Also, if you have a guest who would like to join us for dinner on Sunday, let Bea Ann know.

You will be on your own for dinner on Monday. Bea Ann will share with you a list of area restaurants.

7. Contacts

Lori Wrotenbery
IOGCC
Mobile: 405-921-1892
Lori.Wrotenbery@iogcc.state.ok.us

Bea Ann Phillips
BPlanning Meeting Management, LLC
Mobile: 703-966-3226
bphillips@bplanning.net

Amy Childers
IOGCC
Mobile: 405-642-8074
Amy.Childers@iogcc.state.ok.us

Kaitlyn Smith
IOGCC
Mobile: 713-294-6829
Kaitlyn.Smith@iogcc.state.ok.us

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Subject: IS response
Location: Microsoft Teams Meeting

Start: Friday, August 20, 2021 3:30 PM EDT
End: Friday, August 20, 2021 4:30 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Verner, Frederick C
Required Attendees: Verner, Frederick C <fredverner@chevron.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; John Smitherman <jrs@nmoga.org>; Winn, Lisa <lisa.winn@exxonmobil.com>; Matthias Sayer <Matthias.Sayer@nglep.com>; Yolanda Perez - OXY () <yolanda_perez@oxy.com>; Munds-Dry, Ocean (LDZX) <Ocean.Munds-Dry@conocophillips.com>
Optional Attendees: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting
Join with a video conferencing device
chevron@m.webex.com
Video Conference ID: 119 342 078 6
Alternate VTC instructions
Or call in (audio only)
+1 281-810-1223,,26866740# United States, Houston
Phone Conference ID: 268 667 40#
Find a local number | Reset PIN
Learn More | Meeting options

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Subject: JITC Update
Location: 1220 S. St Francis Dr. Santa Fe, NM 87505 (3rd floor)

Start: Thursday, August 05, 2021 5:30 PM EDT
End: Thursday, August 05, 2021 6:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; suann.guthrie@exxonmobil.com <suann.guthrie@exxonmobil.com>

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Check No	Check Date	Bank	Bank No	Vendor No	Marathon Oil Permian LLC 5555 San Felipe St Houston, TX 77056	Direct Inquiries to: ACCOUNTS PAYABLE DEPARTMENT Accounts Payable Phone: 866-323-1836	Hndlg
1003491	08/03/2021	NCBA	71068	1030255667			41

Invoice Number	Invoice Date	Document No	Remit Comment	Gross Amount	Discount	Invoice/Pay Amount
LS0502300001 -		9900042052	JULIUS E ROBERSON	40.00		40.00
			TOTAL:	40.00		40.00

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FORM 2501 REV. 5/00 71068

ACCOUNTS PAYABLE CHECK

Marathon Oil Permian LLC
5555 San Felipe St
Houston, TX 77056

56-389 / 412

CHECK DATE 8/3/2021

CHECK NUMBER 1003491

Forty and 00/100 Dollars

$40.00

PAY TO THE ORDER OF:

ROBERSON MINERALS LLC
PO BOX 6065
HOBBS, NM 88241

U.S. Funds

MATCH AMOUNT IN WORDS WITH NUMBERS

By: _____
Authorized Representative

PNC Bank, N.A. 070

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Nguyen, Vivian (MRO)

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PO BOX 6065, HOBBS, NM 88241-6065

Mailing Date: 8/3/2021

Est. Delivery: 3 days

Service: Priority Mail (R)

Signature: Not Required

Tracking: 9405511899561426116467

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Delivered, PO Box August 06, 2021, 08:18 AM, HOBBS, NM 88241

Arrived at Post Office August 06, 2021, 06:23 AM, HOBBS, NM 88240

Departed USPS Regional Destination Facility August 05, 2021, 08:40 PM, LUBBOCK TX DISTRIBUTION CENTER

Arrived at USPS Regional Facility August 05, 2021, 05:52 PM, LUBBOCK TX DISTRIBUTION CENTER

Departed USPS Facility August 05, 2021, 11:10 AM, IRVING, TX 75059

Arrived at USPS Facility August 05, 2021, 07:43 AM, IRVING, TX 75059

Departed USPS Regional Facility August 05, 2021, 02:18 AM, NORTH HOUSTON TX DISTRIBUTION CENTER

Arrived at USPS Regional Origin Facility August 04, 2021, 09:21 PM, NORTH HOUSTON TX DISTRIBUTION CENTER

Accepted at USPS Origin Facility August 04, 2021, 08:06 PM, HOUSTON, TX 77056

Shipping Label Created, USPS Awaiting Item August 03, 2021, 06:37 PM, HOUSTON, TX 77056

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From: dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>
Sent: Wednesday, March 30, 2022 5:01 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Slone, Gordon (EEC) <gordonr.slone@ky.gov>; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; Amy Childers <amy.childers@iogcc.state.ok.us>; Cavender, Gina (EEC) <Gina.Cavender@ky.gov>
Subject: Kentucky Comments on DOI State Initial Grant Guidance - BIL
Attachment(s): "state-initial-grant-guidance-bil Kentucky Comments 3 30 2022.pdf"

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

DRAFT

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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NM-EMNRD-22-0512-B-001079

"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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INTERSTATE Oil & Gas COMPACT COMMISSION

900 NE 23rd Street Oklahoma City, Oklahoma 73105
Phone: 405.522.8380 Web: iogcc.ok.gov

Alabama
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Nebraska
Nevada
New Mexico
New York
North Dakota
Ohio
Oklahoma
Pennsylvania
South Dakota
Texas
Utah
Virginia
West Virginia
Wyoming

March 23, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon,

The Interstate Oil and Gas Compact Commission (IOGCC) is a governmental organization of oil and natural gas producing states. IOGCC's mission is to champion the conservation and efficient recovery of domestic oil and gas resources while protecting health, safety, and the environment. Through IOGCC, regulatory agencies from the 38 member and associate member states assist one another in assessing and strengthening their regulatory programs for the environmentally sound development of oil and gas resources.

IOGCC looks forward to continued collaboration with you on implementation of the orphan well provisions of the Bipartisan Infrastructure Law. The principal objectives of these provisions are to provide jobs and protect communities and the environment by plugging orphan wells, restoring the well sites, and decommissioning associated facilities. The funding for state programs constitutes the largest portion of the total funding provided. DOI and the states will need to work in partnership to build the foundation for successful use of this funding to meet the legislative objectives by accelerating the work already being done by the states.

The IOGCC states have completed an initial review of the draft guidance. I have attempted to capture their key comments, questions, and suggestions in the notes on the attached copy of the draft guidance. You will receive additional comments from individual states. Please consider all of them carefully. The primary responsibility for implementation of the legislation lies with the states. The guidance should support, not hinder, their efforts.

Sincerely,

Lori Wrotenbery

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission

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NM-EMNRD-22-0512-B-001093

IOGCC SPECIAL MEETING
COLORADO SPRINGS, CO

August 15-17, 2021

LOGISTICS

We are looking forward to seeing you in Colorado Springs! Here is some information we gathered to help you prepare for the trip. If you have logistical questions that are not addressed here, please contact Bea Ann Phillips at bphillips@bplanning.net.

1. Meeting Location

Cheyenne Mountain Resort
3225 Broadmoor Valley Rd
Colorado Springs, CO 80906
Telephone: 719-538-4000
cheyennemountain.com

Check-in time is 4:00 PM and check-out time is 11:00 AM.

We have confirmed that everyone receiving this information has a room reservation. Any special requests regarding accommodations not previously specified should be communicated as soon as possible to Bea Ann Phillips by email.

All meeting sessions will take place in the Grand Rivers Room at the resort. For meal locations, see 6. below.

2. Ground Transportation

From Colorado Springs Airport to Cheyenne Mountain Resort:
There is no shuttle to the resort. Cabs are available at the airport. Uber and Lyft are also options; however, you will need to allow ample time for them to arrive. Ride sharing services are experiencing delays across the country.

Back to Colorado Springs Airport:
IOGCC is providing a shuttle back to the airport for those interested. It will depart promptly at 12:00 noon on Tuesday and you will need to let Bea Ann know in advance if you would like to be on it. If there is demand for an additional shuttle at a slightly later time, we will arrange one.

Monday excursion to Garden of the Gods:
IOGCC has engaged a bus and guide for this tour.

Monday evening:
IOGCC is providing a shuttle between Cheyenne Mountain Resort and a couple of dining locations. The shuttle will stop at the Edelweiss Restaurant and Biergarten and at a spot in downtown Colorado Springs near several restaurants. To reserve your space on the shuttle, you will need to sign up with Bea Ann on Monday morning. The shuttle will leave the resort at 6:00 PM and make the return trip at 9:00 PM.

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3. Dress Code

The attire for all meetings and meals is mountain casual. Be comfortable. Temperatures in Colorado Springs in August typically range from highs in the 80s to lows in the 50s.

4. Altitude

Colorado Springs sits at 6,000 feet (higher than Denver) and altitude sickness can creep up on you. It's important to stay well hydrated, monitor alcohol and food consumption, and take it easy when you arrive.

5. Covid Protocols

All modes of public transportation, including Uber/Lyft, cabs, and the bus we will use for our Monday excursion, require masks. Please remember to bring you own masks.

The hotel is not currently requiring guests to wear masks in the public spaces of the resort. We will keep you informed if protocols at the resort change before the meeting.

You will make your individual decision whether to wear a mask in the meeting room. Your decision will be respected by all. We will have individually wrapped alcohol wipes available in the meeting room.

6. Meals

IOGCC will provide dinner on Sunday, August 15, breakfast and lunch on Monday, August 16, and breakfast on Tuesday, August 17. If you have any food allergy or other special dietary need, please inform Bea Ann Phillips by email as soon as possible.

The reception and dinner on Sunday is currently scheduled to be held in Remingtons on the Lobby Level of the resort. Bea Ann is exploring with the resort the possibility of moving the reception and dinner outdoors.

We need a headcount for the Sunday dinner. Let Bea Ann know if you will not be joining us. Also, if you have a guest who would like to join us for the reception and dinner, let Bea Ann know as soon as possible and no later than noon ET on Friday, August 13.

Breakfast and lunch on Monday and breakfast on Tuesday will be served near the Grand Rivers Room. Outdoor seating will be available for the breakfasts, and lunch on Monday is scheduled for the Grand Rivers Terrace.

You will be on your own for dinner on Monday. Bea Ann will share with you a list of area restaurants. See 2. above for information on the shuttle.

7. Contacts

Lori Wrotenbery
IOGCC
Mobile: 405-921-1892
Lori.Wrotenbery@iogcc.state.ok.us

Bea Ann Phillips
BPlanning Meeting Management, LLC
Mobile: 703-966-3226
bphillips@bplanning.net

Amy Childers
IOGCC
Mobile: 405-642-8074
Amy.Childers@iogcc.state.ok.us

Kaitlyn Smith
IOGCC
Mobile: 713-294-6829
Kaitlyn.Smith@iogcc.state.ok.us

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From: Mark Brady <Mark.Brady@la.gov>
Sent: Wednesday, March 30, 2022 12:06 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Thomas Harris <Thomas.Harris@LA.GOV>; Richard Ieyoub <Richard.Ieyoub@la.gov>; Blake Canfield <Blake.Canfield@LA.GOV>; John Adams (DNR) <Johnny.Adams@LA.GOV>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Louisiana's Comments on Initial Grant Draft Guidance, Orphaned Wells
Attachment(s): "Cover La Comments FY2022 Initial Grant Guidance Orphaned Wells.pdf","La Specific Comments - FY 2022 Initial Grant Guidance Orphaned Wells.pdf"

Please find two attachments with Louisiana's comments on the Initial Grant Guidelines pursuant to Section 40601 (c)(3) of the Bipartisan Infrastructure Law.

Let us know if you need anything further.

MARK A. BRADY | Undersecretary
Louisiana Department of Natural Resources
617 North Third Street | Baton Rouge, LA 70804
Phone: (225) 342-8844

CONFIDENTIALITY NOTICE
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COMPUTER SYSTEM USE/CONSENT NOTICE
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JOHN BEL EDWARDS
GOVERNOR

THOMAS F. HARRIS
SECRETARY

State of Louisiana

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE SECRETARY

March 29, 2022

Secretary Deb Haaland
Department of Interior

Emailed to orphanedwells@ios.doi.gov

Dear Secretary Haaland:

Please accept this letter and its attachment as the official comments of the State of Louisiana to the "FY2022 State Initial Grant Guidance" ("Draft Guidance") issued by your agency on March 17, 2022 concerning the Initial Grant authorized by the Bipartisan Infrastructure Law ("BIL").

In addition to comments, (indented and in red), on specific portions of the Draft Guidance included in the accompanying attachment, we highlight the following general comments below.

Louisiana is excited to expand the scope of its Oilfield Site Restoration Program and recognizes the significance of the opportunity as well as the task faced in implementing the orphaned well grant programs authorized by the BIL. In order to measure and track methane emissions and water contamination from orphaned wells, provide good paying jobs to the many workers in the oil and gas sector displaced by recent economic downturns, and address disparate impacts from orphaned wells on disadvantaged communities in a transparent manner, greater clarification and specificity is needed regarding certain financial and technical aspects of the Initial Grant.

Louisiana requests the US DOI make clear when and how frequently the Initial Grant can be drawn down, whether it can be used to reimburse pre-award costs for permissible uses, and how interest earned on Initial Grant funds held in Louisiana's financial system are to be handled.

Louisiana further requests clarification as to the differences between the requirements found in Sec. 40601(c)(A)(i)(II)(cc) and Sec. 40601(c)(3)(C). Louisiana recommends that the Sec. 40601(c)(A)(i)(II)(cc) requirement be deemed satisfied if (1) the state has entered into contracts within 90 days of receipt of Initial Grant funds and

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(2) at least 90% of the Initial Grant funds will be committed to those contracts. Further, Louisiana recommends that the Sec. 40601(c)(3)(C) requirement be deemed satisfied if all work funded by the Initial Grant is under way or scheduled within one year of receipt of Initial Grant funds. Based on how long some work may take as well as the need for post-plugging and restoration monitoring and measurements of emissions and water quality, requiring all work to be completed within a year of receipt may make accomplishment of the BIL's stated goals impossible.

In addition to these funding questions, Louisiana has several questions regarding metrics, standards, and other requirements for performing the orphaned well work itself. Most of these comments can be found in the attachment, but I wish to highlight a couple of them here. Louisiana plans to implement methane monitoring and water contamination monitoring and remediation in its Initial Grant projects, among several other best practices outlined in the Draft Guidance. We appreciate that DOI is leaving many of the specific methods for implementing this work to the states. That being said, Louisiana requests, to the extent possible, that DOI provide the states with required metrics DOI plans to utilize for its reports and tracking for the Initial Grant and future grants. This will ensure that states are able to provide DOI with the data and other information it deems necessary and will lead to greater consistency for projects across multiple funding sources.

Finally, in informal meetings held with states earlier this year and last, DOI staff stated that due to the mandatory time periods set forth in the BIL, NEPA would not apply to projects funded by the orphaned well grants authorized by the BIL. Such guidance is notably absent in the Draft Guidance. Louisiana strongly recommends that this be included in DOI's final guidance to ensure that the Initial Grant funding can be obligated within the 1-year time period set forth in the BIL.

Thank you for the opportunity to comment on this guidance. We look forward to working with your agency as this program progresses.

Sincerely,

Thomas F. Harris
Secretary

TFH:mh

Attachment

c: Mark Brady, DNR Undersecretary
Blake Canfield, DNR Executive Counsel

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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.1 Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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STATE OF LOUISIANA COMMENTS 3/29/22

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

> This definition states that not more than 10% of funds received can be attributed to "general grants management or program administration." Would this definition preclude states from obligating the funds to state funds statutorily dedicated for plugging and remediating orphaned sites (i.e. Louisiana's Oilfield Site Restoration "OSR" Fund) or to a procurement office, which would then distribute the funds? Administrative costs cannot be expended for "preparation for and execution of individual projects." This leads us to believe that the 90% can be allocated to the Louisiana's OSR Fund and permissible expenses made from there.
>
> Louisiana further recommends that the guidance specifically identify which permissible uses of initial grant funds are classified as "administrative costs." Specifically, Louisiana believes that "administrative costs" should be narrowly defined and not include uses such as the measuring and tracking of emissions from orphaned wells or the measuring and tracking of contamination of groundwater or surface water associated with orphaned wells.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

> The official date of receipt of funds is when the recipient "initiates its first drawdown of funds from the Automated Standard Application for Payment." Is the drawdown mentioned here the transfer of funds from DOI to the Louisiana Department of Natural Resources ("DNR"), or the transfer from the DNR to its individual accounts?

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DOI should clarify whether this definition also applies to the deadline found in Sec. 40601(c)(3)(C). Louisiana further supports DOI allowing states to receive initial grant funds through multiple separate drawdowns and for the deadlines in Sec. 40601(c)(3)(A)(i)(II)(cc) and (c)(3)(C) to run independently for each drawdown.

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

The definition states, "median household income less than twice the poverty level." It is presumed that this refers to the national poverty level? How would this be quantified if poverty level is determined by household dependents?

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

1. has the meaning given the term by the applicable State; or
2. if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

DOI should seek uniformity as much as possible in how this definition is applied across the states. It is unclear what is meant by "the meaning given the term by the applicable State." DOI guidance should, as much as possible, interpret this definition to ensure that all states are addressing the same types of wells and related oilfield sites. Louisiana is concerned that differences in state statutory or regulatory

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terms that utilize the term orphaned and definitions may penalize those states with established orphaned well programs or allow states to inflate their well counts with wells that either have a current responsible party or ultimately may be found to have never been drilled. This in turn has the potential to redirect orphaned well funding away from states with established orphaned well programs, severely limiting the number of documented orphaned wells that can actually be plugged and restored, thus blunting the ability to reduce associated methane emissions, water contamination, and impacts on public health, including impacts on communities of color, low-income communities, and tribal and indigenous communities.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

DOI should further explain the difference between the requirement to return unobligated amounts found in Sec. 40601(c)(3)(C) and the requirement to enter into new contracts, amend existing contracts, or issue grants found in Sec. 40601(c)(3)(A)(i)(II)(cc). Louisiana recommends that the requirement in Sec. 40601(c)(3)(C) be interpreted to mean that specific work obligating the Initial Grant funds has been directed by a state pursuant to a contract or grant entered into previously, but that the directed work may still be performed beyond 1 year after the date of receipt of the Initial Grant funds. DOI should make it clear that completion or invoice of such work by the 1-year date is not needed for the Initial Grant fund amounts to be obligated. Louisiana is concerned that the proposed definition may lead to the opposite interpretation inasmuch as the "legal liability … for an immediate or future payment" is often contingent on the contracted work being performed.

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;

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Since plugging, remediating, and reclaiming orphaned wells located on Federal land is not an allowable use, is it correct that Initial Grant funds cannot be spent to plug, remediate, or reclaim "federal wells" or are there scenarios where a federal well may not be on federal surface owned lands? If DOI is aware of any examples in Louisiana please provide them.

- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;

Does DOI have any recommended metrics for reporting/tracking water contamination associated with orphaned wells? While Louisiana plans to measure and track this contamination, further guidance on federal metrics will ensure that data collection is undertaken in a way to promote consistency across the various grant programs and between states.

- measure and track emissions of methane and other gases associated with orphaned wells;
- measure and track contamination of groundwater or surface water associated with orphaned wells;

Do you have any recommended practices or methods for determining ground water contamination? For example, if the site has no water well in the vicinity, should a state drill a water well, sample water, and plug the water well following test results/remediation?

- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

Does DOI have any recommended metrics for such remediation? Louisiana plans to remediate adjacent land and remove associated pipelines, facilities, and infrastructure; but recognizes the exact method of remediation may differ significantly depending on the orphaned sites locations within Louisiana's environment. Orphaned site remediation in coastal Louisiana may require more and different work than other sites due to Louisiana's coastal zone management regulations and plan. Louisiana requests that any required standards or metrics take into account Louisiana's unique environment and

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allow enough flexibility to ensure its protection.

- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and

  Can DOI provide examples of eligible expenses under the use "identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities"? Are these eligible uses intended to be limited to orphaned well plugging, reclamation, and site restoration projects or do they include additional non-plugging, reclamation, and site restoration projects and activities?

- administer the program of work identified in its grant agreement.

  Permissible uses of initial grant funds (A). Louisiana recommends that the guidance specifically identify which permissible uses of initial grant funds are classified as "administrative costs." Specifically, Louisiana believes that "administrative costs" should be narrowly defined and not include uses such as the measuring and tracking of emissions from orphaned wells or the measuring and tracking of contamination of groundwater or surface water associated with orphaned wells.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

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Louisiana interprets this to mean that a state must certify [that it will not use less than 90% of its funding to issue new contracts, etc…] within 90 days of receipt of funds. Funding does not have to necessarily be expended for those purposes within 90 days. Louisiana requests that DOI further explain the differences between the requirement to enter into contracts, amend existing contract or issue grants within 90 days of Initial Grant receipt versus the requirement to return funds unobligated 1 year after the date these funds are received.

Finally, how does DOI plan to address potential legal challenges to contract issuance or awards by unsuccessful competing bidders or applicants? Such challenges may take longer than 90 days after receipt of Initial Grant Funds to resolve. What if new contracts have to be entered into outside the 90 day time-period due to such challenges?

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

This subsection states "all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary." Does this mean the States have one year to have the funds obligated or does this mean the States must spend the funds within one year? Also, see comments on "unobligated amounts" definition and comments to III.D above.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is May 13, 2022, 11:59 pm EDT.

Applications must be emailed to orphanedwells@ios.doi.gov. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described

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below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

a. SF-424v4 Application for Federal Assistance
b. SF-424A Budget Information for Non-Construction Programs An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
c. SF-LLL Disclosure of Lobbying Activities
d. OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

Without an awarded contract, specific costs and itemized budget will be difficult. Instead, a high-level cost estimate and budget may be all that is possible.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

If work and services are procured under multiple contracts for the Initial Grant funds, is a separate OMB Form No. 4040-0019 required for each contracted project, or is the "project" being addressed include all work to be funded by the Initial Grant funds?

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

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Is the narrative attachment intended to be a stand-alone document or should it be attached to/included with one of the required forms? If it is to be attached or included in one of the required forms, please identify which form.

a. The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
b. A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
c. Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
d. If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
e. Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
f. The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;

Is the ACR method DOI's final recommended method for tracking and measuring methane emissions from orphaned wells? Developing a testing protocol, procure equipment, and create testing containment will require time and expense. With the ACR methodology document still in draft form, any subsequent changes by ACR may have significant impacts on a state's plan and budget. Louisiana recommends that DOI recognize that methane monitoring by states during the Initial Grant period may require time to ramp up and may lead to improvements from lessons learned throughout the BIL funded projects. Is DOI supportive of states beginning with smaller-scale sampling programs, with the thought to improve monitoring processes over the initial few months?

g. The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Does DOI have recommended metrics for measured and tracked groundwater and surface water contamination? Louisiana recommends that DOI recognize that differences in environments between states and within states will require some flexibility on any such metrics. This is especially true with Louisiana's many unique waterways, wetlands, and coastal habitat.

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h. The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
i. Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
j. Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
k. How the State will use funding to locate currently undocumented orphaned wells;
l. Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
m. Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
n. Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
o. Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
p. Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

Does DOI have any recommended coordination methods it has found successful that states should consider?

q. The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
r. A work schedule covering the period of performance of the Initial grant; and

This subsection states the need for a work schedule covering the period of performance of the Initial grant. What type of support is needed for a work schedule? What type of work schedule…time sheet, official work schedule submitted to HR, etc.? Is this needed only for state employees or will this be needed for the contractor employees also?

Without a final contract, a draft work schedule at a high level is possible. A defined/detailed work schedule would be completed after contracts are awarded based on the contractors equipment, crews, mobilization plan.

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s. If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

This subsection mentions supplying a copy of the federally approved Indirect Cost Rate Agreement as a narrative attachment. LADNR has an approved indirect cost rate above 20%; will we be allowed to charge our approved indirect cost rate to the grant?

In order to ensure that the orphaned well grant funding is spent in a manner to accomplish the stated goals consistently throughout both the initial grant and subsequent grant phases, DOI needs to provide any specific detailed requirements for orphaned well assessment, measurements and tracking, plugging, and site reclamation prior to the deadline for states to apply for the initial grant. If this is not possible, then DOI needs to give states flexibility both during the initial grant and subsequent grant phases to implement technically sound methods and protocols for the recommended elements and best practices outlined in the draft guidance.

D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

See comments to III.A, above

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   a. The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   b. The State has the capacity to initiate such a program; or
   c. The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   a. The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   b. There are 1 or more documented orphaned wells located in the State; and
   c. The State will use not less than 90 percent of the funding requested to

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issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

See comments to IV.C, above.

A. Pre- and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

Does DOI have a required or preferred timeline for the post abandonment inspection? Does DOI have a preferred format or reporting method? Louisiana recommends that DOI accept state inspection forms that include the required data and information.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf); or,

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for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Inasmuch as plugging wells on federal lands is not an eligible use of Initial Grant funds, how should states ensure that funding sources are not commingled while maintaining the efficiencies of such coordination? Does DOI have a proposed method to allocate potentially shared mobilization costs, rental fees, salaries, or other costs between the state and federal programs?

VII. REPORTING REQUIREMENTS

A. Quarterly Reports: Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified

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by the Office of Management and Budget.

Section VII (A) requires multiple types of reports, but how/where do the States submit the reports?

B. Personal Property report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

Louisiana recommends that the 120 day period does not begin running until all work funded by the Initial Grant funds has been completed. This is especially true in the event DOI allows for multiple separate drawdowns of the Initial Grant funds.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted.

E. Data Collection and Reporting

a. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

In the event the appropriate state agencies implementing this program, do not currently have access to the Risk-Based Data Management Solutions (RBDMS) system referenced herein, Louisiana asks DOI to provide guidance on how those agencies may gain access or the ability to review such system.

b. Well location information (e.g., latitude/longitude);
c. Well type (e.g. orphaned production or disposal well);
d. Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;

Louisiana presumes that the requested NAICS codes and working hours are for each worker on each well site and is not limited to tate

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employees alone. Louisiana is therefore concerned that this requirement may be overly burdensome and may negatively affect the state's ability to obligate funds and delay implementation of the program.

e. The population living within a half mile radius of each well being plugged;
f. Pre-plugging methane emissions (if available);
g. Post-plugging methane emissions;
h. Surface water contamination identified;
i. Surface water contamination remediated;
j. Groundwater contamination identified;
k. Groundwater contamination remediated;
l. Acreage impacted by well and infrastructure (site footprint);
m. Revegetation performance standard monitoring start date;
n. Revegetation performance standard attainment date (project complete);
o. Actual total cost per well of plugging and surface reclamation; and
p. If the project is located in a low-income, disadvantaged, and/or minority community.

For subsection (p), Louisiana recommends, instead of using the terms "disadvantaged, and/or minority-communities" that DOI use the defined terms "communities of color," "low-income communities," and "tribal and indigenous communities."

F. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Is there a required timeframe for when and how long the information must be posted on the public website?

G. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

H. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the

AMERICAN OVERSIGHT

States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

In addition to "General Provisions," the DOI "Standard Award Terms and Conditions" includes requirements related to "Environmental Projects" and "Construction Projects." Which of these requirements apply to the Initial Grant funds? If "Requirements Related to Environmental Projects" are intended to apply to all contracts awarded from Initial Grant funding, Louisiana is concerned that NEPA requirements will likely make use of Initial Grant funding within the timeframes provided in Sec. 40601 impossible. Based on previous informal presentations and discussions DOI staff stated that NEPA would not apply for BIL orphaned well funding. If that is still the case, Louisiana strongly recommends that DOI's guidance say so. Additionally, clarification on which other requirements apply and do not apply is sought.

B. Award recipients will be expected to comply with Executive Order 14005, Ensuring *the Future Is Made in All of America by All of America's Workers*, which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

Can DOI provide a list or other resources to help identify any applicable waivers or exceptions from Made in America Laws as described in Executive Order 14005?

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

Louisiana recommends that "disadvantaged communities" be

AMERICAN OVERSIGHT

replaced with the already defined "communities of color," "low-income communities," and "tribal and indigenous communities."

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products

Can DOI provide a list or other resources to help identify any applicable waivers to Sec. 70914 of the Bipartisan Infrastructure Law

AMERICAN OVERSIGHT

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of _____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

DRAFT

AMERICAN OVERSIGHT

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Signature Date

_____ _____

Certifying Official Signature Date

DRAFT

AMERICAN OVERSIGHT

Subject: Marathon call in info

Start: Tuesday, April 26, 2022 3:00 PM EDT
End: Tuesday, April 26, 2022 4:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Romero, RosaM, EMNRD <RosaM.Romero@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>

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AMERICAN OVERSIGHT

From: Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
Sent: Friday, May 13, 2022 1:02 PM EDT
To: Young, Eric <eric.m.young@exxonmobil.com>
CC: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: March C-115 Gas Lift Reporting

Dear Operator,

The OCD requires operators to submit monthly production volumes and associated dispositions on the C-115 report. There are no known circumstances that warrant an extension of or relief from this requirement. It is also the operator's responsibility to amend all C-115's when an error is found.

Due to the changes made to gas lift system reporting and the associated system errors due to deficiencies in Operator's production accounting systems, Operator may temporarily submit C-115's omitting the gas lift volumes. Upon updates to the production accounting systems, Operator is required going to report gas lift volumes as directed by OCD and to amend prior C-115's to reflect gas lift volumes as soon as possible.

This does not exempt the operator from filling a C-115 for any well, nor does it allow operators to stop tracking gas lift volumes. The operator must continue to track gas lift volumes and make them available upon division request.

Please provide the following information to the OCD within one business day:

- OGRID
- Operator Name
- Estimated time to correct internal C-115 reporting
- Average Gas lift volume per month

Thank you,

Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505

From: Young, Eric <eric.m.young@exxonmobil.com>
Sent: Thursday, May 12, 2022 9:20 AM
To: Engineer, OCD, EMNRD <OCD.Engineer@state.nm.us>
Cc: Yancey, Tiffany M <tiffany.yancey@exxonmobil.com>; John Smitherman <JRS@nmoga.org>; Abbott, Lance H <lance.abbott@exxonmobil.com>
Subject: [EXTERNAL] Request for C115 reporting assistance

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good Morning,

I'm hoping Tiffany Yancey and I can work with someone from Engineering staff on filing our March 2022 C115 report.

In short we understand changes were made to accommodate the gas list reporting changes that went into effect on 5/5/2022 per the FAQ we received.

The 3rd party software we use is setup to allow us to turn off the gas lift dispositions from section 22 (code 4) and we are able to do this to meet compliance. This also addresses the issue with it being added to the total production section which should in turn address the gas capture percentage issue we worked through on 4/27/2022 with OCD and NMOCD.

Our key issue is the 3rd party software is not configured for us to be able make changes to the injection section 8 (code 1) without have the 3rd party developer make the changes. This could take from 3 to 6 months for them to make the changes and release the update to us.

Would it be possible to explore an alternative option for the injection section 8 (code 1) changes on the C115 report?

Thank you in advance for your attention to this matter.

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Eric Young
Production Accounting Manager

XTO ENERGY INC., an ExxonMobil Subsidiary
22777 Springwoods Village Parkway
Spring, Texas 77389
405 594 9462 Office
817 205 1777 Mobile

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AMERICAN OVERSIGHT

Subject: Meet w XTO re NOVs
Location: Microsoft Teams Meeting

Start: Wednesday, May 11, 2022 12:00 PM EDT
End: Wednesday, May 11, 2022 1:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>; Greaves, David <David.Greaves@exxonmobil.com>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Optional Attendees: Blair, Rachel Anne <rachel.blair@exxonmobil.com>; Luck, Kaitlyn, EMNRD <Kaitlyn.Luck@state.nm.us>

XTO team please forward onto appropriate people

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AMERICAN OVERSIGHT

Subject: Meeting w XTO re Lease Road Remediation
Location: Microsoft Teams Meeting

Start: Friday, April 15, 2022 11:30 AM EDT
End: Friday, April 15, 2022 1:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>; Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; David.Greaves@exxonmobil.com <David.Greaves@exxonmobil.com>
Optional Attendees: Baker, Adrian <adrian.baker@exxonmobil.com>; Blair, Rachel Anne <rachel.blair@exxonmobil.com>; Pennington, Shelby G <shelby.g.pennington@exxonmobil.com>

David- Please forward to appropriate people on your end.

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AMERICAN OVERSIGHT

Subject: Meeting w XTO re NOVs
Location: Microsoft Teams Meeting

Start: Friday, February 25, 2022 11:00 AM EST
End: Friday, February 25, 2022 12:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Dula, Lee M <lee.m.dula@exxonmobil.com>
Optional Attendees: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>; Cannon, Rick E <rick.e.cannon@exxonmobil.com>; Blair, Rachel Anne <rachel.blair@exxonmobil.com>

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AMERICAN OVERSIGHT

Subject: Meeting with Conoco
Location: Microsoft Teams Meeting

Start: Thursday, September 02, 2021 5:00 PM EDT
End: Thursday, September 02, 2021 5:45 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Optional Attendees: Gibson, Kari S <Kari.Gibson@conocophillips.com>; Matt Lepore <matt.lepore@insightenergylaw.com>

Louis- forward to anyone appropriate on your end.

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AMERICAN OVERSIGHT

Subject: Meeting with NMOCD to discuss proper response to seismic events in New Mexico
Location: Microsoft Teams Meeting

Start: Wednesday, August 18, 2021 1:00 PM EDT
End: Wednesday, August 18, 2021 2:30 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: John Smitherman
Required Attendees: John Smitherman <JRS@nmoga.org>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Lisa Winn <lisa.winn@exxonmobil.com>; Ned Frost <nfrost@matadorresources.com>; Tara Flume <tflume@matadorresources.com>; Cody Comiskey <cody.comiskey@chevron.com>; Tim Harrington <tharrington@mewbourne.com>; Brian Schmit <brian.schmit@dvn.com>; John C Webb <john.webb@nglep.com>; Doug Klepacki <dklepacki@cimarex.com>; David Langton <david.langton@dvn.com>; Matthias Sayer <matthias.sayer@nglep.com>; Doug White <doug.white@nglep.com>; Christian Holcomb <christian.holcomb@nglep.com>; John Cheek <john.a.cheek@exxonmobil.com>; Vance Long <vance.long@h2obridge.com>; Frederick C Verner <fredverner@chevron.com>; Leland Gould <Leland@nmoga.org>; Suann Guthrie <suann.guthrie@exxonmobil.com>; CCalvert@matadorresources.com <CCalvert@matadorresources.com>
Optional Attendees: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Cannon, Rick E <rick.e.cannon@exxonmobil.com>; Patrick Padilla <Patrick_Padilla@eogresources.com>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Jessica High <Jessica.High@h2obridge.com>; Tyler Macfarlane <Tyler_Macfarlane@eogresources.com>; Sarah Mitchell <Sarah_Mitchell@eogresources.com>; Keller Bankston <Keller.Bankston@h2obridge.com>; Dula, Lee M <lee.m.dula@exxonmobil.com>; Rabadue, Stephanie K <stephanie.rabadue@exxonmobil.com>; Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Hernandez, Emily, EMNRD <Emily.Hernandez@state.nm.us>; Conf-Den-537 <Conf-Den-537@nglep.com>

You are invited to a meeting with the NMOCD to discuss recent seismic events in SE NM that could potentially be associated with deep disposal. We intend to discuss data collected by operators in the area, possible responses through a shared practice, and next steps. Please be prepared to discuss analysis of the available data, steps already taken, proposed next steps for responding to this event, and ideas for a more long-term plan. A meeting location for those who can attend in person and an agenda will be forthcoming soon.

Please forward to those in your organization who should also attend.

Thank you very much,

John Smitherman
NMOGA

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MEETINGS OF THE INTERSTATE OIL AND GAS COMPACT COMMISSION, 1935-PRESENT

LOCATION	DATE
Oklahoma City, Oklahoma	September, October and December, 1935
Oklahoma City, Oklahoma	March, October and December, 1936
	July, 1936
New Orleans, Louisiana	May, 1937
Santa Fe, New Mexico	July, 1937
Houston, Texas	October, 1937
Oklahoma City, Oklahoma	January, 1938
Wichita, Kansas	April, 1938
Colorado Springs, Colorado	July, 1938
Tulsa, Oklahoma	September, 1938
Ft. Worth, Texas	December, 1938
Austin, Texas	March, 1939
Santa Fe, New Mexico	July, 1939
Oklahoma City, Oklahoma	August, 1939
Austin, Texas	August, 1939
Ft. Worth, Texas	September, 1939
Wichita, Kansas	January, 1940
Oklahoma City, Oklahoma	April, August and December, 1940
Tulsa, Oklahoma	December, 1940
New Orleans, Louisiana	April, 1941
Ft. Worth, Texas	October, 1941
Oklahoma City, Oklahoma	December, 1941
Little Rock, Arkansas	March, 1942
Lexington, Kentucky	June, 1942
Chicago, Illinois	October, 1942
Oklahoma City, Oklahoma	December, 1942
Wichita, Kansas	April, 1943
Pittsburgh, Pennsylvania	June, 1943
Santa Fe, New Mexico	September, 1943
Wichita, Kansas	December, 1943
New Orleans, Louisiana	April, 1944
Denver, Colorado	June, 1944
Oklahoma city, Oklahoma	October, 1944
Jackson, Mississippi	December, 1944
Oklahoma City, Oklahoma	June, 1945
Wichita, Kansas	December, 1945
Tulsa, Oklahoma	April, 1946
Grand Rapids, Michigan	August, 1946
Dallas, Texas	December, 1946
Birmingham, Alabama	April, 1947
Great falls, Montana	August, 1947
Oklahoma city, Oklahoma	December, 1947
Chicago, Illinois	May, 1948
New York, New York	August, 1948
Wichita, Kansas	December, 1948
Jacksonville, Florida	May, 1949
Estes Park, Colorado	September, 1949
New Orleans, Louisiana	December, 1949
Biloxi, Mississippi	May, 1950
French lick, Indiana	August, 1950
Houston, Texas	December, 1950
Santa Fe, New Mexico	April, 1951
Ft. Worth, Texas	September, 1951
Little Rock, Arkansas	December, 1951
Phoenix, Arizona	May, 1952
Banff Alberta, Canada	September, 1952
Wichita, Kansas	December, 1952
New Orleans, Louisiana	April, 1953
Billings, Montana	August, 1953
Oklahoma City, Oklahoma	December, 1953
Savannah, Georgia	May, 1954
Omaha, Nebraska	September, 1954
Chicago, Illinois	December, 1954
Denver, Colorado	June, 1955
Santa Fe, New Mexico	December, 1955
Dallas, Texas	May, 1956
Miami Beach, Florida	December, 1956
Yellowstone Park, Wyoming	June, 1957
Tulsa, Oklahoma	December, 1957
Salt Lake City, Utah	June, 1958
Kansas, Missouri	December, 1958
New Orleans, Louisiana	June, 1959
Philadelphia, Pennsylvania	December, 1959
Detroit, Michigan	June, 1960
Phoenix, Arizona	December, 1960
Houston, Texas	June, 1961
Denver, Colorado	December, 1961
Omaha, Nebraska	June, 1962
Miami Beach, Florida	December, 1962
New Orleans, Louisiana	June, 1963
Santa Fe, New Mexico	December, 1963
Billings, Montana	June, 1964
Biloxi, Mississippi	December, 1964
Pittsburgh, Pennsylvania	June, 1965
Corpus Christi, Texas	December, 1965
Tulsa, Oklahoma	June, 1966
Phoenix, Arizona	December, 1966
Denver, Colorado	June, 1967
New Orleans, Louisiana	December, 1967
Mobile, Alabama	June, 1968
Miami Beach, Florida	December 1968
Casper, Wyoming	June, 1969
Salt Lake City, Utah	December, 1969

AMERICAN OVERSIGHT

Columbus, Ohio	June, 1970
Santa Fe, New Mexico	December, 1970
Bismarck, North Dakota	June, 1971
Biloxi, Mississippi	December, 1971
Hot Springs, Arkansas	June, 1972
Houston, Texas	December, 1972
Tulsa, Oklahoma	June, 1973
New Orleans, Louisiana	December, 1973
Vail, Colorado	June, 1974
Phoenix, Arizona	December, 1974
Charleston, West Virginia	June, 1975
Birmingham, Alabama	December, 1975
Wichita, Kansas	June, 1976
San Antonio, Texas	December, 1976
Nashville, Tennessee	June, 1977
Santa Fe, New Mexico	December, 1977
Tulsa, Oklahoma	June, 1978
Phoenix, Arizona	December, 1978
Lexington, Kentucky	June, 1979
Los Angeles, California	December, 1979
Vail, Colorado	June, 1980
Dallas, Texas	December, 1980
Casper, Wyoming	June, 1981
Santa Fe, New Mexico	December, 1981
Columbus, Ohio	June, 1982
New Orleans, Louisiana	December, 1982
Tulsa, Oklahoma	June, 1983
Orlando, Florida	December, 1983
San Diego, California	June, 1984
Santa Fe, New Mexico	December, 1984
Austin, Texas	June, 1985
New Orleans, Louisiana	December, 1985
Anchorage, Alaska	June, 1986
Salt Lake City, Utah	December, 1986
Coeur d'Alene, Idaho	June, 1987
Santa Fe, New Mexico	December, 1987
Colorado Springs, Colorado	June, 1988
Overland Park, Kansas	December, 1988
Reno, Nevada	June, 1989
Tulsa, Oklahoma	December, 1989
Bismarck, North Dakota	June, 1990
Phoenix, Arizona	December, 1990
Casper, Wyoming	June, 1991
New Orleans, Louisiana	December, 1991
Wichita, Kansas	June, 1992
Salt Lake City, Utah	December, 1992
Tulsa, Oklahoma	June, 1993
Anchorage, Alaska	September, 1993
Santa Fe, New Mexico	December, 1993
Charleston, West Virginia	March, 1994
Breckenridge, Colorado	June, 1994
Washington, D.C	September, 1994
Long Beach, California	December, 1994
Washington, D.C	March, 1995
Charleston, West Virginia	June, 1995
Denver, Colorado,	September, 1995
Houston, Texas	December, 1995
Washington, D.C	March, 1996
Indianapolis, Indiana	May, 1996
Omaha, Nebraska	September, 1996
Las Vegas, Nevada	December, 1996
Washington, D.C	March, 1997
Oklahoma City, Oklahoma	June, 1997
San Antonio, Texas	September, 1997
Santa Fe, New Mexico	December, 1997
Washington, D.C	March, 1998
Overland Park, Kansas	June, 1998
Jackson Hole, Wyoming	September, 1998
Salt Lake City, Utah	December, 1998
Washington, D.C	March, 1999
Jackson Hole, Wyoming	June, 1999
Wichita, Kansas	September, 1999
New Orleans, Louisiana	December, 1999
Washington, D.C	March, 2000
Lexington, Kentucky	June, 2000
Dallas, Texas	September, 2000
San Antonio	December, 2000
Washington, D.C	March, 2001
Anchorage, Alaska	May, 2001
Oklahoma City, Oklahoma	September, 2001
Santa Fe, New Mexico	December, 2001
Traverse City, Michigan	June, 2002
Little Rock, Arkansas	December, 2002
Williamsburg, Virginia	May, 2003
Reno, Nevada	October, 2003
Columbus, Ohio	May, 2004
Oklahoma City, Oklahoma	October, 2004
Anchorage, Alaska	May, 2005
Jackson Hole, Wyoming	September, 2005
Billings, Montana	May, 2006
Austin, Texas	October, 2007
Point Clear, Alabama	May, 2007
New Orleans, Louisiana	September, 2007
Calgary, Alberta	May, 2008
Santa Fe, New Mexico	November, 2008
Anchorage, Alaska	May, 2009
Biloxi, Mississippi	October, 2009

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Tucson, Arizona	May, 2010
Lexington, Kentucky	October, 2010
Bismarck, North Dakota	May, 2011
Buffalo, New York	October, 2011
Vancouver, British Columbia	June, 2012
San Antonio, Texas	October, 2012
Point Clear, Alabama	May, 2013
Long Beach, California	November, 2013
Biloxi, Mississippi	May, 2014
Columbus, Ohio	October, 2014
Salt Lake City, Utah	May, 2015
Oklahoma City, OK	September, 2015
Denver, CO	May, 2016
Little Rock, AR	October, 2016
Oklahoma City, OK	May 2017
Pittsburgh, PA	October 2017
Oklahoma City, OK	May 2018
Coeur d'Alene, ID	October 2018
Oklahoma City, OK	May 2019
Medora, North Dakota	August 2019
Virtual Meeting	June-July 2020
Virtual Meeting	November 2020
Virtual Meeting	May 2021
Santa Fe, New Mexico	November 2021

AMERICAN OVERSIGHT

Subject: Mewbourne - Red Hills SWD No. 2 NOV Follow-up
Location: Microsoft Teams Meeting

Start: Wednesday, March 23, 2022 3:00 PM EDT
End: Wednesday, March 23, 2022 4:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Fuge, Dylan , EMNRD
Required Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Reagan Butts <rbutts@mewbourne.com>; Will Hutchins <whutchins@mewbourne.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Optional Attendees: Drew Robison <drobison@Mewbourne.com>; TYL-LEGAL-CONFERENCE <TYLLegalConference@mewbourne.com>; TYL-GEO-CONFERENCE <TYLGEOConference@mewbourne.com>; Cody Owens <cowens@mewbourne.com>

Reagan/Will – Please forward as necessary to others. Thanks, Dylan

---

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Subject: Mewbourne NOV discussion
Location: Microsoft Teams Meeting

Start: Friday, March 18, 2022 5:00 PM EDT
End: Friday, March 18, 2022 6:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Powell, Brandon, EMNRD
Required Attendees: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

I have some legal questions and this one may be messy.

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AMERICAN OVERSIGHT

Subject: Mewbourne Oil Company - Mr. Ken Waits - President & CEO
Location: 3rd Floor - Office of the Cabinet Secretary - Across Hall from Elevator (Double doors) - Conference Room

Start: Friday, February 11, 2022 4:00 PM EST
End: Friday, February 11, 2022 4:30 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Propst, Sarah, EMNRD
Required Attendees: Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Judy Hollers <jhollers@Mewbourne.com> <jhollers@Mewbourne.com>
Optional Attendees: Ken Waits <kwaits@mewbourne.com>

Lois Caroline Pedro
Executive Assistant - Constituent Services
Office of the Secretary

Energy, Minerals and Natural Resources Department
WENDELL CHINO BUILDING
1220 South St. Francis Drive
Santa Fe, NM 87505

Telephone: 505.476.3316
Fax: 505.476.3220

State of New Mexico
Energy, Minerals & Natural Resources Department

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, February 2, 2022
3:00 PM CT

1. Call to Order and Roll Call — Chair, Ken Wagner

Members Present:
John Baza
Wayne Christian
Lynn Helms
Jeremy Price
Adrienne Sandoval
Ken Wagner
Adam Wygant

Members Absent:

2. Minutes of Previous Meeting

Chair Ken Wagner asked if there was any objection to approval of the minutes of the January 5, 2022, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on various administrative matters. No action was taken.

4. Update on REGROW Act Implementation

The committee discussed the questions raised by DOI's announcement earlier in the week of the phased approach to the formula grant allocations. Wrotenbery will draft a summary—for potential future use—of areas in which DOI appears to be deviating from the language of REGROW.

Wrotenbery noted that she will join Adam Peltz of EDF and Ryan Ullman of IPAA on February 10, 2022, in providing a briefing on orphan wells for Congressional staff. The briefing will be hosted by the offices of Senators Luján and Cramer.

5. 2022 Annual Conference—Baltimore Royal Sonesta Harbor Court

Wrotenbery described staff's findings on potential locations for the annual conference.

Motion by Ken Wagner to hold the annual conference in Baltimore, Maryland.
Second by Adrienne Sandoval.
Motion passed unanimously.

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6. Other Business

Adam Wygant inquired about the scheduling of the next Nominating Committee meeting. Wrotenbery responded that the meeting will be scheduled soon.

7. Adjournment

With its business concluded, the committee adjourned the meeting at 3:55 PM CT.

AMERICAN OVERSIGHT

Interstate Oil and Gas Compact Commission
Steering Committee
Minutes of Videoconference
Wednesday, November 3, 2021
3:00 PM CT

1. Call to Order and Roll Call **Chair, Wayne Christian**

Members Present:	Members Absent:
John Baza	Larry Bengal
Charlie Burd	
Wayne Christian	
Lynn Helms	
Jeremy Price	
Adrienne Sandoval	
Ken Wagner	
Adam Wygant	

2. Minutes of Previous Meeting

Chair Wayne Christian asked if there was any objection to approval of the October 6, 2021, minutes as presented. Hearing none, he declared the minutes approved by unanimous consent.

3. Executive Director's Report

Executive Director Lori Wrotenbery reported on administrative matters. No action was taken.

4. Review of Agenda for 2021 Annual Conference

The committee reviewed plans for the upcoming 2021 Annual Conference in Santa Fe, New Mexico, November 7-9, 2021.

5. Other Business

The committee had no other business.

6. Adjournment

With its business concluded, the committee adjourned the meeting at 3:15 PM CT.

AMERICAN OVERSIGHT

From: NMOGA Member Services <members@nmoga.org>
Sent: Friday, August 27, 2021 1:49 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: New Mexico Oil & Gas Association - Thank you for your order

Adrienne Sandoval,

Confirmation for the order placed on 8/27/2021.

Click here for a printable view of the order.

The following is a description of the order:

Order Number is: 505411461

Ordered 1 products (see below):

Product Number: X3D5C8
Product: Non-Member Registration
Quantity: 1
Price Each: $700.00
Total Price: $700.00

Sales Discount (PROMO CODE welcome21): ($700.00)
Sales Discount (Early Bird Discount): ($50.00)

Total: $0.00

Thanks!

- New Mexico Oil & Gas Association

This is an automated email sent from New Mexico Oil & Gas Association. Please do not reply to this email. It has been sent from an email account that is not monitored. If you feel you have received this message in error, please feel free to contact us.

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FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private surface and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

Commented [A1]: OCD joins in IOGCCC's comments on this provision that additional guidance/training would be helpful on funding draw down.

Commented [A2]: As OCD had previously noted, we did not include such wells in the numbers reported in our NOI. Does the Department have plans to collect updated data given this clarification? Since more than half of NM's overall well count is federal, this delta could be significant.

Commented [A3]: OCD already successfully plugs federal wells consistent with federal standards so this obligation is workable. However, often times plugging federal wells is delayed by the extensive process BLM uses to identify orphan wells. OCD believes its formal administrative hearing process against the most recent registered operator is sufficient to identify inactive wells that have been orphaned and properly subject to a state plugging order. If BLM, wants to incentivize states to plug split estate wells it should rely on state identification processes. ¶
¶
A related question arises though in split estate lands, because the minerals are federal BLM is the bond holder. If a state were to plug on such lands there would need to be a mechanisms for any existing federal bonds to be forfeit by the BLM with proceeds transferred to the state.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term also:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants for any of the following purposes~~to~~:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

Commented [A4]: OCD recommends that the definition track verbatim the term as defined in the BIL. The language here is close, but do not believe there needs to be any deviation.

Commented [A5]: OCD joins in IOGCCC's general comments on this section and would appreciate clarification on application of funds to pre-award costs.

Commented [A6]: Proposed language is from BIL.

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

Commented [A7]: OCD is not certain this description adequately describes potential scenarios given the diversity of Indian land ownership type (e.g., allotted, restricted fee). We would encourage a double check. ¶
¶
Also, we assume non-trust lands are just private lands not withstanding the highlighted language or the fact they may be owned by a tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. Deadline

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. Required Elements

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. Recommended Elements

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

Commented [A8]: OCD recognizes the importance of prioritizing wells sites to address those presenting greater risks. ¶
¶
We want to encourage DOI to not be overly prescriptive in this space as each state has unique procedural requirements we must follow. ¶
¶
For example, in NM our process requires us to take an operator through a formal administrative enforcement type hearing to obtain a plugging order.

Commented [A9]: See prior comment.

Commented [A10]: OCD recognizes the critical importance of addressing methane emissions in the oil patch, as evidenced by our nation leading waste rules. However, in this context we encourage DOI to maximize flexibility - e.g., rather than well specific measurements in each instance can we use emissions factors or representative measurements from other wells in the same field. Well specific measurements may slow down plugging pace . We also urge caution in requiring reliance on draft protocols that have not yet been robustly deployed at scale. Such methodologies may not work in all environments and tend to favor larger plugging operators over smaller ones.

Commented [A11]: OCD encourages DOI to modify this requirement to measure and track ground and surface water contamination to where necessary/appropriate. OCD investigates ground and surface when and where circumstances dictate (e.g., evidence of releases or other indicia of contamination). Requiring it in all instances potentially risks unnecessary monitoring well construction, which increases disturbances and drives up plugging costs.

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;

(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;

(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;

(k) How the State will use funding to locate currently undocumented orphaned wells;

(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;

(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;

(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;

(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;

(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;

(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;

(r) A work schedule covering the period of performance of the Initial grant; and

(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

Commented [A12]: See general comment above about prioritization. States are obligated to follow their existing statutes rules and regulations, which will facilitate public participation in various ways/times in the plugging process. A changed or standardized approach may require states to undertake rulemakings or seek legislative updates which can be time consuming and may inhibit the funding from being spent within the year time frame.

Commented [A13]: OCD recommends rephrasing this to state "If the state will use funding to locate currently undocumented wells, how will it be used?"

Commented [A14]: OCD supports this objective, but notes that it may often be outside the jurisdiction of entities charged with plugging authority under state law. OCD intends to partner with other state agencies to support such programs to the extent permitted by law.

Commented [A15]: See prior comment, also to some extent this provision overlaps with (m) above, consider consolidating, (m), (n) and (o).

Commented [A16]: See prior comment regarding prioritization. NM recognizes the importance of addressing these sites in underserved communities, but this is one of many factors we have to consider as part of our process.

Commented [A17]: OCD is requests clarity on what is being requested by this line item. A work schedule may vary depending on circumstances that are outside of OCD's control, we request this be a "proposed" work schedule that will provide flexibility when and if changes need to be made.

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D. Restrictions on funding use (90% must be for contracts & grants)

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. Certifications

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

Commented [A18]: See comments above re: methane measurement and ground water contamination.

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

Commented [A19]: As noted above, we encourage DOI to adopt flexibility with respect to this measurement guidance. There are implementation risks with pointing to a methodology that has not yet be finalized or deployed at scale. ¶
¶
Second, the more prescriptive the methodology required, the greater the risk you disqualify plugging crews from smaller local companies. ¶
¶
OCD encourages other models, e.g., emission factors/assumptions or allowing measurements from one well in a field being plugged to be extrapolated to other wells in the same field. ¶
¶
For example, OCD is currently in the middle of a plugging a large field where an operator discontinued operations in 1984. The field follows a similar area/basin and the orphaned wells are all of a similar vintage a design. Rather then measuring emissions at every single well, it would seem reasonable to measure a subset to come up with a reasonable estimate that can be utilized for the remainder of the wells in the field.

Commented [A20]: As demonstrated by our existing work plugging wells on federal lands, OCD existing program can meet these standards. DOI should affirmatively stated that existing programs with plugging standards are presumed to suffice and should not require verbatim compliance with BLM standards/program, except when a state is plugging a well subject to federal jurisdiction on the Fed's behalf.

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

Commented [A21]: We echo IOGCC's comments that these interactions should be coordinated by DOI.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

Commented [A22]: OCD supports the need to collect data to show success and accountability within the program. However, we note, that particularly in the first couple quarters as states ramp up their programs, that there may be less well plugging and remediation work, with numbers increasing as time goes on. NM is working now to scale its program, but that work, particularly contract updates takes time.

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

Commented [A23]: While some large multi-national plugging contractors may have the ability to provide this granular information, many smaller, local plugging companies likely will not. Invoicing information is typically aggregated by the number of hours total not broken down by specific employee and NAICS code. This granular information request may disadvantage local companies who hire workers in local communities. OCD recommends requesting total hours worked per site as an aggregate number. ¶
¶
Alternatively, we could collect periodic information from our plugging contract (e.g., annual updates on employee count, plugging crew composition, and hours spent on a typical project).

Commented [A24]: This data element may be challenging for States to obtain as we don't have specific population data of surrounding structures. We can more readily identify structures within the immediate area or identify if the well is in city/town. OCD recommends that this be a more general question such are there occupiable structures in the surrounds half mile radius.

Commented [A25]: Similar to comment above, OCD recommends that this be a yes or no check box.

Commented [A26]: OCD suggests that there be a caveat to this request, such as "if surface water contamination was identified, then was surface waste contamination remediated"

Commented [A27]: Same comments as on surface water with the additional highlight that groundwater contamination could take years to remediate so a response of "in progress" should be allowed.

Commented [A28]: OCD encourages that the practices for attainment of regrowth should follow either state land provisions or recommendations by land owners. Holding a site for a period of years prior to releasing it may hold up future leasing of the site by a state land agency or private land owner.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

Commented [A29]: OCD recognizes the importance of importance of having access to sites where federal funds are being used. However, OCD suggests that this requirement be revised to make clear that in all instances site visits be coordinated in conjunction with state staff prior to visiting. This is particularly true on private lands. While state personnel have the right to enter and inspect oil and gas sites on private land, we work though private land owner as necessary to obtain the necessary authorizations. Those access rights are not automatically extended to any other entity affiliated with the state.

Commented [A30]: See comment above on site prioritization and disadvantaged communities.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

Commented [A31]: OCD supports the buy American Provision in the BIL. However given supply chain issues, it would be helpful to get some guidance on what constitutes manufactured products and construction materials.¶
¶
It would also be helpful if DOI kept track of waivers currently available for any products that may be necessary during the plugging process. ¶
¶
For example, with supply chain problems over the last year, plugging contractors have found it increasingly challenging to find cement. While what is available may be manufactured in the U.S., with limited options it also may not be. Without these critical materials plugging and remediation work cannot be undertaken. It is critical states have easy access to the latest information.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

DRAFT

AMERICAN OVERSIGHT

Subject: NMOCD/EOG seismic event discussion
Location: MS Teams

Start: Monday, August 23, 2021 6:00 PM EDT
End: Monday, August 23, 2021 7:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Patrick Padilla
Required Attendees: Patrick Padilla <Patrick_Padilla@eogresources.com>; Sarah Mitchell <Sarah_Mitchell@eogresources.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Bill Keller <Bill_Keller@eogresources.com>; Robert Kidney <Robert_Kidney@eogresources.com>; Tyler Macfarlane <Tyler_Macfarlane@eogresources.com>; Antonio Sierra <Antonio_Sierra@eogresources.com>

Microsoft Teams meeting

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eogresources@m.webex.com
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Alternate VTC instructions

Or call in (audio only)
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May 17, 2022

New Mexico Oil Conservation Division
Director Adrienne Sandoval
Santa Fe, NM

Re: ***County Line Seismicity Pressure-Connectivity Test***

Director Sandoval,

As part of its ongoing efforts, the County Line Collaborative Response Working Group (Group) conducted various pressure-connectivity tests in 2021, all of which returned data that has been critical to enhancing the Group's collective understanding. As discussed with the Oil Conservation Division (Division) on May 11, 2022, the Group is proposing and hereby requests authorization to conduct an additional pressure-connectivity test.

Specifically, the Group proposes to initiate a pulse of injection at the NGL Striker 2 (API# 300154441600) and Mesa Verde (API# 300154467600) SWD wells of up to a combined total of 45,000 BPD for up to 60 days[1]. Consistent with the Division's Seismicity Response Protocol (Nov. 23, 2021) (Protocol) and because the Striker 2 and Mesa Verde wells both lie greater than 6 but less than 10 miles distant from the July 19, 2021 ML4.0 seismic event, both wells are presently subject to and operating at or below 75% of their respective previous 6-month daily injection average (applying the Protocol's 25% reduction). To implement the pressure-connectivity test, deviation from the Protocol's 25% reduction is necessary.

In conjunction with the test, in addition to the pressure gauge operating at the NGL Paduca 6 SWD well, a similar gauge would be placed at an XTO SWD to the southwest of the Striker 2 and Mesa Verde wells. As operator of the two SWD wells in question, NGL would provide notice to the Division at least 24 hours prior to test commencement and would continue to report daily injection rates via Division Daily Injection Reports.

In sum, the Group hereby requests that the Division suspend the 25% curtailment as applied to the NGL Striker 2 and Mesa Verde SWD wells for a period of up to 60 days, which 60-days would begin to run upon commencement of increased injection activity at the two NGL SWDs identified.

Thank you,

Matthias Sayer
SVP Legal, NGL Energy Partners, LP

[1] See Attachment A for approximate well locations / distance from Paduca 6

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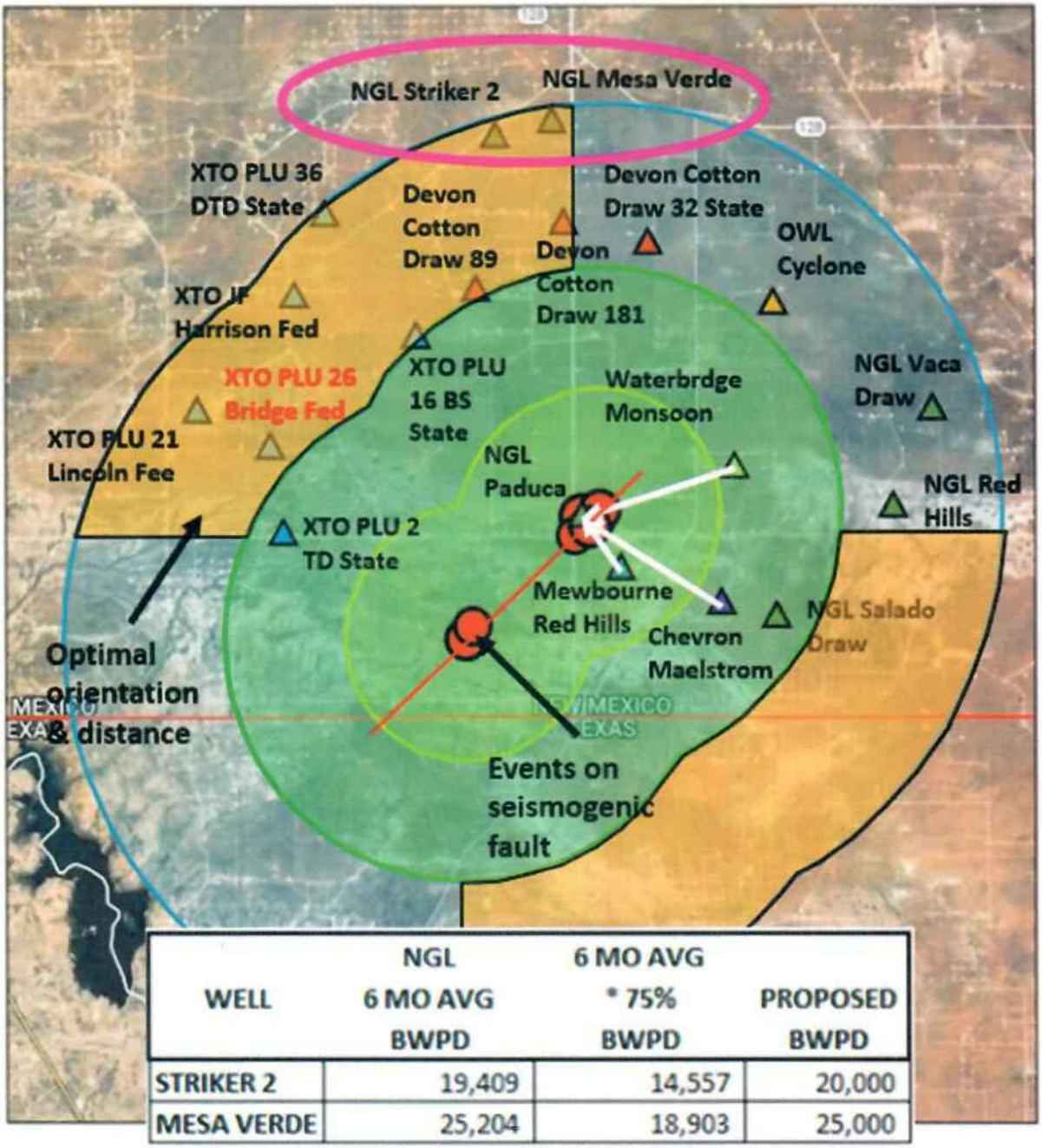

WELL	NGL 6 MO AVG BWPD	6 MO AVG * 75% BWPD	PROPOSED BWPD
STRIKER 2	19,409	14,557	20,000
MESA VERDE	25,204	18,903	25,000
	44,613	33,460	45,000

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Subject: NMOGA Joint Committee Meeting - August 25, 2021
Location: Microsoft Teams Meeting

Start: Wednesday, August 25, 2021 2:30 PM EDT
End: Wednesday, August 25, 2021 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kathy Ytuarte
Required Attendees: Kathy Ytuarte <Kathy@nmoga.org>; gcrabtree@envirotech-inc.com <gcrabtree@envirotech-inc.com>; mike.smith@dvn.com <mike.smith@dvn.com>; npiatek@hilcorp.com <npiatek@hilcorp.com>; Mroberts@targaresources.com <Mroberts@targaresources.com>; hussenoeder@exxonmobil.com <hussenoeder@exxonmobil.com>; danny.nichols@energytransfer.com <danny.nichols@energytransfer.com>; ccreekmore@hilcorp.com <ccreekmore@hilcorp.com>; halvarez@tascosaep.con <halvarez@tascosaep.con>; emily_messer@oxy.com <emily_messer@oxy.com>; sflaherty@cimarex.com <sflaherty@cimarex.com>; Bbishop@mewbourne.com <Bbishop@mewbourne.com>; chad.macdonald@cdevinc.com <chad.macdonald@cdevinc.com>; bpickett@fmellc.com <bpickett@fmellc.com>; ashley.ager@wsp.com <ashley.ager@wsp.com>; mmcmillan@swca.com <mmcmillan@swca.com>; jbradfute@marathonoil.com <jbradfute@marathonoil.com>; shall@logosresourcesllc.com <shall@logosresourcesllc.com>; jshuck@gmecnm.com <jshuck@gmecnm.com>; tiffany.polak@state.nm.us <tiffany.polak@state.nm.us>; Clayton@blm.gov <Clayton@blm.gov>; chelsey.green@dvn.com <chelsey.green@dvn.com>; rvalverde@montand.com <rvalverde@montand.com>; bmoore@montand.com <bmoore@montand.com>; kanicia.schlichting@cdevinc.com <kanicia.schlichting@cdevinc.com>; ccardoza@hilcorp.com <ccardoza@hilcorp.com>; dan.moir@wsp.com <dan.moir@wsp.com>; Tyra.Feil@duganproduction.com <Tyra.Feil@duganproduction.com>; gbloom@slo.state.nm.us <gbloom@slo.state.nm.us>; david.grounds@pilotwater.com <david.grounds@pilotwater.com>; amarks@slo.state.nm.us <amarks@slo.state.nm.us>; rhillman@aecnm.com <rhillman@aecnm.com>; kevin.smaka@duganproduction.com <kevin.smaka@duganproduction.com>; acovarrubias@marathonoil.com <acovarrubias@marathonoil.com>; cberube@bwenergylaw.com <cberube@bwenergylaw.com>; kbnoble@paalp.com <kbnoble@paalp.com>; adrian.baker@exxonmobil.com <adrian.baker@exxonmobil.com>; jfarrell@hilcorp.com <jfarrell@hilcorp.com>; tflume@matadorresources.com <tflume@matadorresources.com>; charlesross@chevron.com <charlesross@chevron.com>; moshe.wolfe@crestwoodlp.com <moshe.wolfe@crestwoodlp.com>; gmaanen@chevron.com <gmaanen@chevron.com>; John Smitherman <JRS@nmoga.org>; bsumner@bwenergylaw.com <bsumner@bwenergylaw.com>; pthompson@merrion.bz <pthompson@merrion.bz>; mollie.schall@crestwoodlp.com <mollie.schall@crestwoodlp.com>; mfeldewert@hollandhart.com <mfeldewert@hollandhart.com>; jason.conway@matadorresources.com <jason.conway@matadorresources.com>; Leland Gould <Leland@nmoga.org>; aayala@andium.com <aayala@andium.com>; sfleming@talonlpe.com <sfleming@talonlpe.com>; violav@forl.com <violav@forl.com>; ccallahan@bwenergylaw.com <ccallahan@bwenergylaw.com>; sshaheen@montand.com <sshaheen@montand.com>; Jennifer.F.Reed@exxonmobil.com <Jennifer.F.Reed@exxonmobil.com>; jrw.weakslaw@gmail.com <jrw.weakslaw@gmail.com>; kaluck@hollandhart.com <kaluck@hollandhart.com>; vdicosimo@targaresources.com <vdicosimo@targaresources.com>; greg_hardin@oxy.com <greg_hardin@oxy.com>; alexandra.fleming@chevron.com <alexandra.fleming@chevron.com>; ryan@kairosaerospace.com <ryan@kairosaerospace.com>; jenna.kennedy@chevron.com <jenna.kennedy@chevron.com>; dean.o.chumbley@conocophillips.com <dean.o.chumbley@conocophillips.com>; matt.mathis@cehmm.org <matt.mathis@cehmm.org>; john.durand@xriwater.com <john.durand@xriwater.com>; Gabrielle.A.Gerholt@conocophillips.com <Gabrielle.A.Gerholt@conocophillips.com>; kyle.littrell@exxonmobil.com <kyle.littrell@exxonmobil.com>; karla.niemeier@cehmm.org <karla.niemeier@cehmm.org>; aashland@enduringresources.com <aashland@enduringresources.com>; stephanie.rabadue@exxonmobil.com <stephanie.rabadue@exxonmobil.com>; jimmyc@forl.com <jimmyc@forl.com>; awalker@afpm.org <awalker@afpm.org>; heidi.wray@enstorinc.com <heidi.wray@enstorinc.com>; klparker@paalp.com <klparker@paalp.com>; ocean.munds-dry@conocophillips.com <ocean.munds-dry@conocophillips.com>; DKennard@DurangoMidstream.com <DKennard@DurangoMidstream.com>; eed@modrall.com <eed@modrall.com>; adavanzo@tascosaep.com <adavanzo@tascosaep.com>; brett.jennings@matadorresources.com <brett.jennings@matadorresources.com>; eric.tiemeyer@energytransfer.com <eric.tiemeyer@energytransfer.com>; pshorty@hilcorp.com <pshorty@hilcorp.com>; escostello@paalp.com <escostello@paalp.com>; JENNY.HARMS@DVN.COM <JENNY.HARMS@DVN.COM>; petermueller@ecovaporrs.com <petermueller@ecovaporrs.com>; meales@lucid-energy.com <meales@lucid-energy.com>; acarl@targaresources.com <acarl@targaresources.com>; jennifer_hanna@eogresources.com <jennifer_hanna@eogresources.com>; yolanda_perez@oxy.com <yolanda_perez@oxy.com>; john.alexander@duganproduction.com <john.alexander@duganproduction.com>; kerry.egan@energytransfer.com <kerry.egan@energytransfer.com>; montgomery.floyd@cdevinc.com <montgomery.floyd@cdevinc.com>; rebecca.deal@dvn.com <rebecca.deal@dvn.com>; jpabon@targaresources.com <jpabon@targaresources.com>; tsauer@bwenergylaw.com <tsauer@bwenergylaw.com>; Kperkins@matadorresources.com <Kperkins@matadorresources.com>; heather.glaze@dvn.com <heather.glaze@dvn.com>; schapman@spurepllc.com <schapman@spurepllc.com>; wcc@four-one-three.com <wcc@four-one-three.com>; mcelente@trinityconsultants.com <mcelente@trinityconsultants.com>; mike.luckett@enlink.com <mike.luckett@enlink.com>; mdegenfelder@mspartners.com <mdegenfelder@mspartners.com>; ccombs@taprk.com <ccombs@taprk.com>; sarah_mitchell@eogresources.com <sarah_mitchell@eogresources.com>; mdchastant@paalp.com <mdchastant@paalp.com>; emily.wirth@cehmm.org <emily.wirth@cehmm.org>; psreinermann@eprod.com <psreinermann@eprod.com>; tim.baker@conocophillips.com <tim.baker@conocophillips.com>; leslie_reeves@oxy.com <leslie_reeves@oxy.com>; priscillayelvington@chevron.com <priscillayelvington@chevron.com>; santos_gonzales@eogresources.com <santos_gonzales@eogresources.com>;

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Attachment(s): "NMOGA JCM August 25th 2021_ Agenda_Final.pdf"

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NEW MEXICO OIL AND GAS ASSOCIATION

Joint Committee Meeting Agenda

Date & Time:

Wednesday,
August 25th, 2021
1:30-4:00(CST)
12:30-3:00 (MT)

Conference Call:
RSVP to Kathy Ytuarte
For Call-in Information

Co-Chairs

Yolanda Perez
Ocean Munds-Dry
Lisa Winn
Mike Smith
Tim Baker
Bradley Bishop
Chuck Creekmore
Anita Ashland

Next Meeting
TBD

1. Introductions
2. Agency Updates:
    a. SLO – Allison Marks & Greg Bloom
    b. OCD – Director Sandoval & Deputy Director Tiffany Polak
    c. BLM – Jim Stovall, Cody Layton
3. NMOGA Updates – Leland Gould, Robert McEntyre, and John Smitherman
4. Legislative Update - Aimee Barabe
5. Update from Methane Rulemaking Leadership Team
    a. NMED Rule
6. Committee Updates
    a. RPC – Ocean/Yolanda
        i. OCD -
            1. V&F Rules General Discussion
            2. Spill Rule prohibiting minor and major spills goes into effect August 24th
            3. Spill Remediation Plan Approvals
            4. C-104s & BLM Completions
        ii. Deep Disposal Workgroup Update – Stefan Hussenoeder
        iii. State Land Office
            1. Issues on expired leases and abandoned sites
    b. EAC – Lisa/Mike
        i. NMED RCD response to NMOGA NORM Letter
        ii. ESA – Comments on Texas Hornshell Mussel and Lesser Prairie Chicken
        iii. Quad Oa Policy and Technical Rule Update
            1. CRA Implications
    c. Public Lands
        i. Statewide
            1. Site Security & Measurement Rules – in limbo
            2. ROW Bonding
        ii. SENM – Tim/Bradley
            1. Temporary Water Line Policy – Working to expand to Produced Water on hold
            2. Carlsbad RMP
        iii. NW – Chuck/Anita
            1. Mancos RMP
7. Other Business

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Subject: NMOGA question follow up
Location: Microsoft Teams Meeting

Start: Friday, March 25, 2022 3:00 PM EDT
End: Friday, March 25, 2022 4:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Polak, Tiffany, EMNRD
Required Attendees: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>

Microsoft Teams meeting

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Subject: NMOGA Regulatory Committee

Start: Wednesday, December 08, 2021 3:00 PM EST
End: Wednesday, December 08, 2021 4:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>

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Subject: NMOGA Touch Base
Location: Microsoft Teams Meeting

Start: Thursday, October 07, 2021 3:00 PM EDT
End: Thursday, October 07, 2021 4:00 PM EDT
Show Time As: Busy

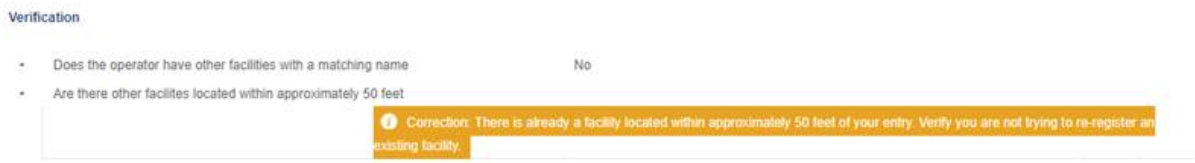
Recurrence: None

Meeting Status: Not yet responded

Organizer: Polak, Tiffany, EMNRD
Required Attendees: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Smith, Cory, EMNRD <Cory.Smith@state.nm.us>; Garcia, John A, EMNRD <JohnA.Garcia@state.nm.us>; Perez, Yolanda <Yolanda_Perez@oxy.com>; Ocean Munds-Dry <Ocean.Munds-Dry@conocophillips.com>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Optional Attendees: Iannuzzi, Morgan A <morgan@chevron.com>; Owen, Susan <sowen@chevron.com>

Yolanda and Ocean have requested a meeting to address the following questions. (Teams mtg link at the very bottom)

- Reporting Beneficial Use: 19.15.27.9.D(5)
  - This requirement seems to be limited to locations that do not have 100% gas takeaway. Additionally, it does not specify that we need to report each of these beneficial use categories on the C-115B on a well and facility basis. However, the final version of the C-115B quarterly report posted by the NMOCD on September 14, 2021 requires this reporting. Is it expected that only sites without 100% gas takeaway can report "beneficial use"? If beneficial use is limited to sites without 100% gas takeaway, the gas capture percentage will not be accurate as these beneficial use volumes would be excluded. Additionally, what is the relationship between beneficial use in the C-115B report to the disposition code "Used on Property" in the C-115 report? The initial draft of C-115B quarterly report released on August 13, 2021 seemed to indicate that we would use the "U" code to calculate the gas capture percentage on the General Information tab, but the final version sums the individual beneficial use volumes on the Venting and Flaring Volumes tab.
- What will the relationship be between C-115 V&F volumes and quarterly report/C-115B V&F volumes?
- Estimating Gas Volume – Relevant requirements: 19.15.27.8.F(2), (5) & (6)
  - Specifically, we are looking at requirement F(6). It is not clear to us where this requirement is applicable. Requirement 2 indicates that measuring equipment is only required on flares connected to equipment such as high pressure separators, heater treaters, or vapor recovery units. Typically, this type of equipment is found at facilities (e.g., central tank batteries), not wells. So, we are struggling to understand how to apply the phrase "for a well that does not require measuring equipment" in F(6). Also, should requirement F(6) only refer to estimated flared volumes because measured equipment is only required for flared volumes? Requirement F(5) seems to allow any estimation methods as long as they can be independently verified. Sometimes there are more accurate methods to estimate volumes, such as using average flowrate. We're looking to clarify what methods we can use to estimate vented volumes and when we must use annual GOR test to calculate flared and/or vented volumes.
- Facility Registrations
  - As Cory had pointed out, historically Facility IDs were typically associated with releases, or physical location that had a permit or administrative order.
    - As we are registering facilities for the purposes of reporting venting and flared volumes, do we use a previous facility ID that was assigned for another purpose, e.g. releases?
    - When registering facilities that may be within 50' of an existing facility, it ask to verify you are registering a different facility but it won't allow you to verify.



  - Operators are busy trying to get facilities registered and have identified some efficiencies that would be helpful:
    - We do appreciate that we get an instant email with a facility ID but the email has only facility ID and no other information. It would be nice if the email would at least include the facility name but would be even better if it also include the location information. (I sent this request to Cory already)
    - When you are signed into OCD Online reviewing the registrations that have been approved, you click on the Action ID to look at the specifics but the specifics do not include location information.

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[UF-FAC] TB Registration (TB-REG) Application

Submission Information

Submission ID:	49851	Districts:	Artesia
Operator:	[157984] OCCIDENTAL PERMIAN LTD	Counties:	Eddy
Description:	OCCIDENTAL PERMIAN LTD [157984] YESO VIKING FED CTB fAPP2126047292 (Open: 01/01/1900, Active, Tank Battery - (TB),)		
Status:	APPROVED		
Status Date:	09/17/2021		
References (1):	fAPP2126047292		

Forms

No attachments found for this submission.

Questions

Facility Details

Please answer all of the questions in this group.

Name of the facility	YESO VIKING FED CTB
Date the facility was opened	*Not answered*
Depth to ground water, if known	*Not answered*

- You then would have to sign out of OCD Online and do a general facility search that does include location information.

YESO VIKING FED CTB [fAPP2126047292]

General Facility Information

Operator:	[192463] OXY USA WTP LIMITED PARTNERSHIP		
Status:	Active	Type:	Tank Battery - (TB)
District:	Artesia	Surface Owner:	
County:	Eddy (15)		
Surface Location:	L-23-17S-27E Lot: 0 FNL 0 FEL		
Lat/Long:	32.81863,-104.25677 NAD83		
Quarter-Quarter:			
Directions:			

Notes

This facility was registered on 09/17/2021 by yolandaperez for OCCIDENTAL PERMIAN LTD [157984] (action id: 49851).

Microsoft Teams meeting

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+1 505-312-4308,,322452668# United States, Albuquerque
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Subject: NMOGA Updates
Location: 1220 S. St. Francis Dr. (third floor)

Start: Wednesday, August 11, 2021 4:00 PM EDT
End: Wednesday, August 11, 2021 4:45 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; John Smitherman <JRS@nmoga.org>

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State NOI Data

State	Documented orphan wells	Projected costs to plug orphan wells	Number of jobs lost from March 1, 2020 - November 15, 2021
Alabama	91	$4,230,000	117
Alaska	12	$42,616,250	3,300
Arizona	245	$12,969,230	344
Arkansas	425	$6,375,000	388
California	5,356	$974,949,035	4,750
Colorado	625	$47,343,791	6,251
Illinois	4,415	$163,355,000	189
Indiana	1,459	$77,688,521	62
Kansas	5,477	$35,765,917	401
Kentucky	11,728	$235,034,398	93
Louisiana	4,605	$401,704,649	4,112
Michigan	439	$31,861,500	146
Mississippi	14	$1,120,000	885
Missouri	4,849	$29,094,000	0
Montana	279	$14,254,250	343
Nebraska	471	$19,311,000	29
New Mexico	1,741	$290,611,502	5,335
New York	4,897	$248,062,500	1
North Dakota	186	$38,758,000	6,797
Ohio	19,662	$1,548,851,635	998
Oklahoma	17,865	$501,876,011	9,884
Pennsylvania	26,908	$1,831,573,744	3,021
Texas	7,396	$481,800,000	32,200
Utah	41	$1,534,852	650
West Virginia	6,309	$991,000,000	762
Wyoming	1,311	$19,927,595	4,304
Total	**126,806**	**$8,051,668,380**	**85,362**

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DOI Formula Grant Allocation – Phase One

State	Allocation of funds based on number of documented orphan wells (33% of formula)	Allocation of funds based on projected costs (33% of formula)	Allocation of funds based on job losses (33% of formula)	Estimated phase one allocation	Total projected costs	Allocation as a percentage of projected costs
Alabama	$119,605	$87,559	$228,439	$435,604	$4,230,000	10.30%
Alaska	$15,772	$882,141	$6,443,148	$7,341,061	$42,616,250	17.23%
Arizona	$322,014	$268,458	$671,649	$1,262,122	$12,969,230	9.73%
Arkansas	$558,596	$131,960	$757,558	$1,448,114	$6,375,000	22.72%
California	$7,039,625	$20,181,098	$9,274,228	$36,494,951	$974,949,035	3.74%
Colorado	$821,465	$980,000	$12,204,884	$14,006,349	$47,343,791	29.58%
Illinois	$5,802,827	$3,381,390	$369,017	$9,553,234	$163,355,000	5.85%
Indiana	$1,917,627	$1,608,125	$121,053	$3,646,805	$77,688,521	4.69%
Kansas	$7,198,660	$740,342	$782,940	$8,721,942	$35,765,917	24.39%
Kentucky	$15,414,623	$4,865,128	$181,580	$20,461,331	$235,034,398	8.71%
Louisiana	$6,052,553	$8,315,143	$8,028,553	$22,396,249	$401,704,649	5.58%
Michigan	$576,997	$659,522	$285,060	$1,521,579	$31,861,500	4.78%
Mississippi	$18,401	$23,184	$1,727,935	$1,769,520	$1,120,000	157.99%
Missouri	$6,373,253	$602,235	$0	$6,975,488	$29,094,000	23.98%
Montana	$366,702	$295,058	$669,697	$1,331,457	$14,254,250	9.34%
Nebraska	$619,056	$399,731	$56,622	$1,075,408	$19,311,000	5.57%
New Mexico	$2,288,272	$6,015,555	$10,416,423	$18,720,250	$290,611,502	6.44%
New York	$6,436,341	$5,134,805	$1,952	$11,573,099	$248,062,500	4.67%
North Dakota	$244,468	$802,277	$13,270,932	$14,317,677	$38,758,000	36.94%
Ohio	$25,842,626	$32,060,677	$1,948,564	$59,851,867	$1,548,851,635	3.86%
Oklahoma	$23,480,750	$10,388,655	$19,298,205	$53,167,609	$501,876,011	10.59%
Pennsylvania	$35,366,360	$37,912,924	$5,898,409	$79,177,693	$1,831,573,744	4.32%
Texas	$9,720,886	$9,973,088	$62,869,505	$82,563,479	$481,800,000	17.14%
Utah	$53,888	$31,771	$1,269,105	$1,354,764	$1,534,852	88.27%
West Virginia	$8,292,194	$20,513,347	$1,487,781	$30,293,323	$991,000,000	3.06%
Wyoming	$1,723,105	$412,494	$8,403,427	$10,539,026	$19,927,595	52.89%
Total	**$166,666,667**	**$166,666,667**	**$166,666,667**	**$500,000,000**	**$8,051,668,380**	

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DOI Formula Grant Allocation – Estimated Total

State	Allocation of funds based on number of documented orphan wells (33% of formula)	Allocation of funds based on projected costs (33% of formula)	Allocation of funds based on job losses (33% of formula)	Estimated total allocation	Total projected costs	Allocation as a percentage of projected costs
Alabama	$461,676	$337,979	$881,774	$1,681,429	$4,230,000	39.75%
Alaska	$60,880	$3,405,063	$24,870,538	$28,336,482	$42,616,250	66.49%
Arizona	$1,242,974	$1,036,249	$2,592,565	$4,871,788	$12,969,230	37.56%
Arkansas	$2,156,180	$509,366	$2,924,172	$5,589,718	$6,375,000	87.68%
California	$27,172,938	$77,898,997	$35,798,502	$140,870,437	$974,949,035	14.45%
Colorado	$3,170,853	$3,782,797	$47,110,829	$54,064,478	$47,343,791	114.20%
Illinois	$22,398,902	$13,052,160	$1,424,404	$36,875,466	$163,355,000	22.57%
Indiana	$7,402,038	$6,207,358	$467,265	$14,076,661	$77,688,521	18.12%
Kansas	$27,786,815	$2,857,718	$3,022,147	$33,666,680	$35,765,917	94.13%
Kentucky	$59,500,413	$18,779,385	$700,897	$78,980,696	$235,034,398	33.60%
Louisiana	$23,362,841	$32,096,436	$30,990,198	$86,449,475	$401,704,649	21.52%
Michigan	$2,227,207	$2,545,752	$1,100,333	$5,873,292	$31,861,500	18.43%
Mississippi	$71,027	$89,489	$6,669,826	$6,830,342	$1,120,000	609.85%
Missouri	$24,600,742	$2,324,628	$0	$26,925,370	$29,094,000	92.55%
Montana	$1,415,469	$1,138,923	$2,585,029	$5,139,420	$14,254,250	36.06%
Nebraska	$2,389,554	$1,542,960	$218,559	$4,151,074	$19,311,000	21.50%
New Mexico	$8,832,727	$23,220,029	$40,207,370	$72,260,126	$290,611,502	24.86%
New York	$24,844,264	$19,820,338	$7,537	$44,672,139	$248,062,500	18.01%
North Dakota	$943,646	$3,096,787	$51,225,773	$55,266,205	$38,758,000	142.59%
Ohio	$99,752,484	$123,754,149	$7,521,454	$231,028,086	$1,548,851,635	14.92%
Oklahoma	$90,635,649	$40,100,186	$74,491,031	$205,226,865	$501,876,011	40.89%
Pennsylvania	$136,514,079	$146,343,810	$22,767,847	$305,625,737	$1,831,573,744	16.69%
Texas	$37,522,600	$38,496,101	$242,676,163	$318,694,864	$481,800,000	66.15%
Utah	$208,008	$122,636	$4,898,742	$5,229,386	$1,534,852	340.71%
West Virginia	$32,007,854	$79,181,478	$5,742,833	$116,932,165	$991,000,000	11.80%
Wyoming	$6,651,180	$1,592,226	$32,437,211	$40,680,618	$19,927,595	204.14%
Total	**$643,333,000**	**$643,333,000**	**$643,333,000**	**$1,929,999,000***	**$8,051,668,380**	

**Remainder of approximately $70 million may have been reserved for federal administrative costs.*

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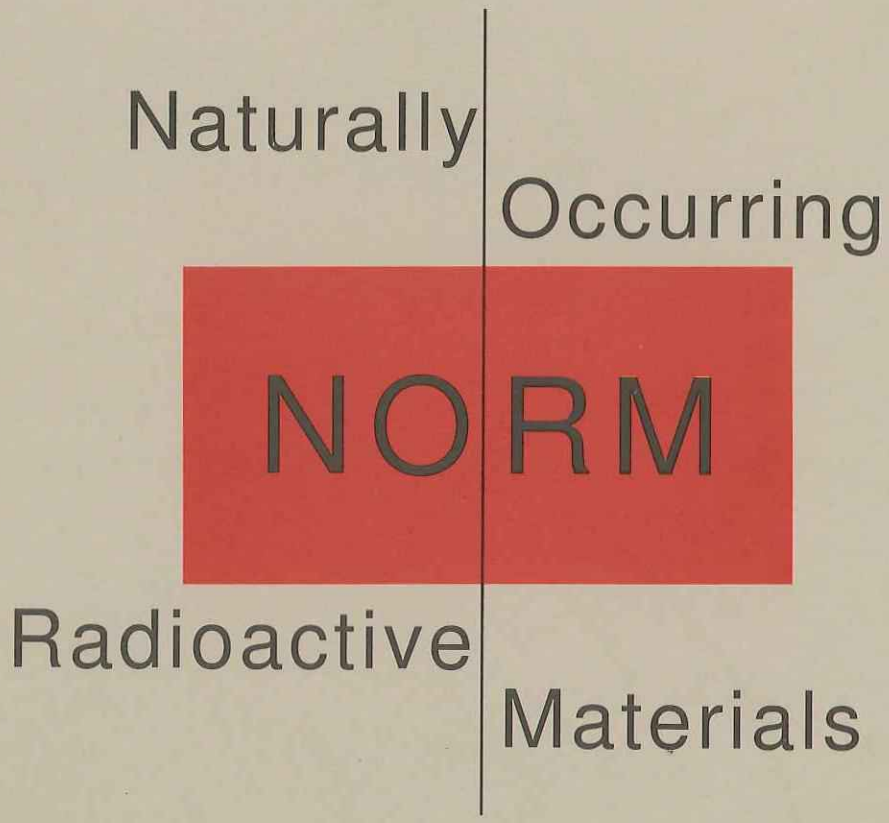

Guidance Document and

Summary of State Regulations for NORM in Oil and Gas

Interstate Oil and Gas Compact Commission

NORM Subcommittee of the Environmental and Safety Committee

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PREFACE

This is the final report on the work of a subcommittee of the IOGCC, on NORM oilfield. The industry problem, however, is not really addressed by the report. The report provides thoughtful and feasible solutions; but these solutions are based upon what radiation protection authorities (whomever they are) have institutionalized as an irrational fear that any level of Ionizing radiation is dangerous. Their radiation protection policy is derived from high-dose radiation health effects data (i.e., from Hiroshima and Nagasaki atomic bomb survivors, and from medical therapies). To apply this data to low-dose radiation protection where studies find no adverse health effects, administratively presumes health effects to be linearly proportional to radiation dose down to zero dose. No lower limit is acknowledged below which radiation effects are negligible.

There is no scientific evidence for adverse health effects at the low dose rates experienced in oil field NORM. Most low-dose laboratory and population studies are inadequate to show effects at low levels. However, many show bio-positive or adaptive response at low dose rates.

At present, regulatory levels to manage oil field waste contaminated with NORM costs about $2000 per ton. On occasion it can be significantly higher. This management cost does find its way into the price of gasoline and heating oil. Oilfield NORM is a very minor issue lumped in with all other forms of NORM contaminated waste. It is even less significant when the entire range of ionizing radiation sources are considered. But what is the cost of all these regulated wastes? Using today's standards, each human life hypothetically saved in a Western industrial society by their implementation through protection regulations is estimated to cost about $2.5 billion. The total cost of maintaining these absurdly low and unscientific relationships for radiological doses defies reason. It takes public funds away from other more realistic health risks and desperate public health problems. The cost of immunization against measles, diphtheria, polio and a host of other childhood killers that plague "below the poverty line" children throughout the world would run no more than $100 per vaccination. Are Westerners worth 25 million times as much as a child in Africa, or even a Native American baby on a reservation in New Mexico?

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Radiation health effects' research on low doses has been constrained by radiation science policy, along with scientific knowledge about radiation and human health, and the potential application of radiation in biology, agriculture, and human and non-human health and nutrition. Around the world, radiation medicine and other nuclear applications and benefits are constrained and made uneconomic, and caused preventable adverse health effects, while imposing enormous public costs for "radiation protection" that provide no health benefits. Data exists at the doses and populations to establish that no adverse effects exist. New molecular and cellular biology data demonstrate that cellular control of massive natural DNA damage rates contradicts the biological plausibility of the present standards.

We need to push for a practical threshold; one based upon epidemiological data that presently exists and is ignored. The new paradigm must include data from exposure in medical procedures, the nuclear industry, the data from Three-mile Island, Chernobyl, military exposed during atmospheric testing and, yes, even people who live in regions of high natural radiation. Consider the data that demonstrates thresholds and does not use the irrational extrapolation downward from high dose effects. Let us define a practical threshold, below which we would not expect to find detectable radiologenic cancers or genetic effects. Below this practical threshold no regulation would be necessary, and it would most likely eliminate most oilfield NORM.

Philip N. Asprodites Louisiana Commissioner of Conservation
Chairman, Interstate Oil and Gas Compact Commission
Environmental and Safety Committee

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INTRODUCTION

It is well known in the oil and gas industry that naturally occurring radioactive materials (NORM) are present in the brines that surface during oil and gas production. NORM is found in scale, sludge, produced water, and production and processing equipment.

The regulations of NORM and its restricted handling and disposal have created additional expenses for production and processing operations. This "cost of regulation" falls the hardest on marginal production and during the close out of production facilities.

The oil and gas industry understands that chronic exposure to significant levels of ionizing radiation from any source can be hazardous to the public; however, for the most part, petroleum industry NORM is not characterized by significant levels of radiation. To mitigate any potential risk, the industry, working with state regulatory agencies, is developing and implementing NORM guidelines and management tools that will meet two goals:

- Protection of the health of the general public
- Minimization of the cost of NORM management.

In support of these goals, the NORM Subcommittee of the Environmental and Safety Committee of the Interstate Oil and Gas Compact Commission (IOGCC) compiled a report complete with reference material. The IOGCC hopes the document will assist states in the development of NORM management criteria.

Thomas O. Bush, Ph.D. BPF, Inc. Chairman
Chairman NORM Subcommittee
Interstate Oil and Gas Compact Commission

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I
BACKGROUND

Although the existence of naturally occurring radioactive material (NORM) has been known for quite some time, NORM waste and especially its management is an emerging environmental issue. The methods for treating, processing and disposing of NORM waste are rapidly evolving.[1]

Oilfield NORM is a byproduct of production brines and occurs primarily in the form of radium-226 (Ra-226) with associated levels of radium-228 (Ra-228), which are the daughter products of uranium-238 (U-238) and thorium-232 (Th-232). The radionuclides U-238 and Th-232 are naturally present in many of the subsurface formations containing oil and gas producing reservoirs. Both U-238 and Th-232 are relatively insoluble and remain in place in the subsurface formations. However, their radioactive progeny are slightly soluble in the subsurface and can mobilize in the subsurface liquid environment. Ra-226, polonium-210 (Po-210) and lead-210 (Pb-210) are the principal radionuclides of concern based on their dominant concentrations and relative health concerns.

NORM accumulates in the oil production stream when the dissolved radium (Ra-226 and Ra-228) is carried to the surface in the produced brine water. Formation fluid chemistry determines whether radium dissolution or precipitation occurs. Radium solubility increases in water that has a high saline (total dissolved solids) content and either low or high pH values. Radium is chemically analogous to the alkaline earth element barium and calcium that are typically found dissolved in formation fluids. Chloride and sulfate salts also are typically found in the formation fluids. If conditions are conducive to precipitation, radium will co-precipitate with the alkaline earth elements to form complex sulfates, carbonates and silicates. These precipitates are deposited in oil production equipment in the form of scale, sediment and sludge. Generally, higher water production results in increased NORM deposition.

The primary waste streams of concern are radium bearing scales and sludges, as well as equipment and soils impacted by NORM wastes. Selection of the most appropriate waste management alternatives needs to take into account the physical/chemical characteristics of the impacted materials.

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Characterization of Oilfield NORM

A significant amount of data characterizing oilfield NORM is available. Although the concentration of NORM in soil, scale and equipment is site specific, there are common characteristics associated with oilfield NORM.

The primary radionuclides of concern in petroleum industry NORM are Ra-226 and Ra-228. Total radium concentrations (i.e., Ra-226 plus Ra-228) in scales and sludges are quite variable. For scales, radium concentrations can range from undetectable levels to several thousand pCi/g.[2] For sludges, they can range from undetectable levels to several hundred pCi/g.[2] For both waste streams, extremely high concentrations (on the order of several hundreds of thousands of pCi/g) have been reported; however, such values do not appear to be statistically representative of petroleum industry NORM. [3,4]

Radium (Ra-226 and Ra-228), especially in the chemical form $Ra/BaSO_4$, present in oilfield NORM, is extremely insoluble. The EPA Toxicity Characteristic Leaching Procedure (TCLP) method has been used to determine the potential for leaching of radionuclides from solid material under simulated worst-case physical and chemical conditions. In real terms, these worst-case physical and chemical conditions could not occur at a NORM-impacted site and, therefore, are overly conservative for determining leaching potential. Nevertheless, results of the TCLP analysis of representative soil and scale samples demonstrate the highly insoluble nature of oilfield NORM.[5,6] Furthermore, these data indicate that default solubility values provided in standard radiation dose assessment codes are not appropriate, because they would tend to grossly overestimate the resulting potential radiation dose from water-dependent pathways.

Lead-210 (Pb-210) and polonium-210 (Po-210) are decay products of Ra-226. In the absence of site-specific data for oil production waste, it should be assumed that they are present at equilibrium concentration with Ra-226. However, in gas operations, Rn-222 is the predominate parent product from which elevated levels of Po-210 and Pb-210 may be present. Pb-210 is a beta emitter and Po-210 is an alpha emitter. Potential inhalation or ingestion of these radionuclides should be considered in any dose assessment or evaluation of waste management alternatives.

Rn-222 is the progeny of Ra-226 and a naturally occurring radioactive gas that is generated within the material matrix. The transport and release of radon from the material into the air is limited by the tightly bound crystalline lattice structure of the scale. Actual measurements of airborne concentrations of radon in NORM-impacted sites have shown that in areas having elevated concentrations of Ra-226, radon

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concentrations are often indistinguishable from natural background radon concentrations.[7,8] Additional studies measuring radon emanation rates from NORM-impacted scales, soils, and sediments that were collected from several different sites have found values ranging from 0.02 to 0.22.[9,10] These values are relatively small when compared to the emanation fraction for a typical soil (e.g., 0.25).

Potential Health Impacts from Exposure to NORM

The health risk associated with radiation from NORM is similar to that presented by exposure to any ionizing radiation source. The risk depends upon many factors; among them are the length of exposure, the level of radiation, the general health of the exposed person, and whether exposure is internal or external. Implementation of basic industrial hygiene practices in oil field operations typically will reduce the potential for inadvertent exposure to NORM. In general, the greatest risks associated with petroleum industry NORM are related to potential long-term exposures to members of the general public associated with disposal of these materials. However, numerous studies have indicated that, in most circumstances, these risks, as well as those to workers, are *negligible*.

In the discussion papers that follow, references are made to specific studies evaluating potential radiological doses and risks associated with petroleum industry NORM. These references summarize the major conclusions of each study, as they are relevant to the discussion and provide a citation so that the reader might obtain a copy of the full report, if necessary. More detailed discussions of each study are beyond the scope of this report. It is strongly advised that in-depth reviews of these studies are warranted to support specific regulatory positions.

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II
EXEMPTION LEVELS OF OIL AND GAS NORM

Background

Exemption levels are specific levels or concentrations that determine which waste materials are subject to controlled management. In the absence of any federal regulation of NORM, many states have promulgated their own NORM regulations. To date, a total of six major oil and gas producing states have regulations or guidelines in place which provide exemption levels for release of land and equipment for unrestricted use.[1] Exemption levels are provided as: (1) exposure levels (in units of μR/h); (2) radionuclide activity concentration (in units of pCi/g); (3) surface contamination level (in units of disintegration per minute/ 100 cm^2); and (4) radon flux (in units of $pCi/m^2/s$). A summary of release criteria and exemption levels from existing NORM regulations and guidelines are shown in the attached Table.

In general, states have drawn upon existing standards and guidelines for similar waste-types in establishing release criteria and exemption levels for NORM. Several states have adopted a level of 5 pCi/g radium in the top 15 cm of soil as the exemption level for unrestricted release of land. A level of 15 pCi/g has also been adopted by most states as a standard for subsurface soil (i.e., soil at a depth greater than 15 cm). These same levels initially were promulgated by the U.S. Environmental Protection Agency for disposal and cleanup of uranium and thorium mill tailing sites in 40 CFR 192. The criterion of 5 pCi/g for surface soil is a health-based standard, established to limit exposure to gamma radiation. The subsurface criterion of 15 pCi/g was derived on the basis of cost and feasibility of detecting discrete caches of high activity material. Several states have established dual exemption levels for release of land dependent upon radon flux rates. Typically, the standard is 5 pCi/g of radium if the radon flux is 20 $pCi/m^2/s$ or higher and 30 pCi/g if the radon flux is below this level. This standard was based on the standard for radon established by the National Emission Standards for Hazardous Air Pollutants (contained in 40 CFR 192 and 40 CFR 61), a set of standards promulgated pursuant to the Clean Air Act and its amendments. Characterization of NORM waste (e.g., scale) generated by the oil and gas industry has indicated that the radon

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emanation fraction is on the order of a factor of ten lower than the emanation rate from typical soil or mill tailings and would typically be well below the 20 pCi/m^2/s limit.[2] As a result, in states that have established the dual exemption levels, the 30 pCi/g standard would be applied at almost all sites impacted by petroleum industry NORM.

With respect to exemption levels for loose wastes impacted by NORM (e.g., scale, sludge, and soil), states have established levels ranging from 5 to 30 pCi/g of radium. In about half of the states, the standard is either 5 pCi/g or 30 pCi/g, depending upon the radon flux rate; in two states, the standard is 30 pCi/g, and in the remaining states, the standard is 5 pCi/g. With respect to exemption levels for NORM-impacted equipment, most states have established a screening level based on external exposure levels. Typically this level is 50 μR/h including background; in one state (Mississippi) the standard is 25 μR/h above background. A few states have established an exemption level for contaminated equipment on the basis of surface activity levels. These levels vary from state to state, but are similar to guidelines provided in Nuclear Regulatory Commission Guideline 1.86[3] and U.S. Department of Energy Order 5400.5.[4] For these states, equipment is exempt only if a swipe sample is less than the designated count rate collected from a 100-cm^2 area (i.e., dpm/100 cm^2).

In April 1999, the Conference of Radiation Control Program Directors (CRCPD) released their final report, Part N, "Regulation and Licensing of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM)".[5] Exemption levels for any combination of Ra-226 and Ra-228 are set at 5 pCi/g, on the basis of experience with hazards associated with uranium mill tailings. Further, the CRCPD does not consider it appropriate to perform purposeful dilution in order to meet the exemption limit. The subcommittee on the other hand, believes that in some cases dilution is both the least expensive and the safest way to obtain concentrations below exemption limits.

Issues

Exemption Levels for NORM-Impacted Equipment

In most of the states, an upper gamma exposure rate of 50 μR/h, including background is designated for release of contaminated pipe and equipment. Surface

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activity levels for release of contaminated equipment and property have been put in place by some states, but the NORM Subcommittee believes that they are not necessary because gamma exposure criteria are sufficient for the oil and gas industry's releases. Surface activity levels are difficult and expensive to determine, provide little information regarding the potential for human exposure, and may be in conflict with the gamma exposure criteria. Additionally, many types of NORM contaminated material may not be suitable for collection of a 100-cm^2 swipe sample. Gamma exposure measurements are inexpensive and easy to perform, thereby simplifying the release procedure for pipe and equipment.

Exposure Limits and Health Risk

The upper limit for radiation dose to the public is an important consideration in regulating NORM. The National Council on Radiation Protection and Measurements (NCRP)[6] and the International Conference on Radiation Protection (ICRP) [7] recommend an upper limit on exposure to members of the public from man-made radiation sources of 1 millisievert (100 millirem)/year. This limit is an upper limit, designed to limit exposure of members of the public to reasonable levels of risk comparable with risks associated with other common sources. Both the NCRP and ICRP advocate application of the as low as reasonably achievable (ALARA) philosophy. By applying ALARA this limit should never be exceeded; expected doses would be much less than the limit.

The CRCPD Part N report states in Section N.5 that operations, use, or transfer of TENORM should be conducted in a manner such that a member of the public will not receive in excess of an annual total effective dose of 1 mSv/yr from all licensed sources, including TENORM. The calculated dose should not include doses from indoor radon. Release of TENORM for unrestricted use is also limited to a dose limit of 1 mSv/yr (or some fraction of), excluding natural background.

The NCRP has recommended remedial action levels for intervention at previously contaminated NORM sites. In Section 16 of Report 116, the NCRP stated that for exposures from natural radiation sources, "It is recommended that remedial action be undertaken when continuous exposures from natural sources, excluding radon, are expected to exceed five times the average background, or 5 mSv (500

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millirem)/year. Remedial action for radon should be undertaken when the total exposure to radon decay products for an individual exceeds an annual average of 2 working level months (WLM)."[6] The NCRP also cautions "Actions to reduce exposure should not be limited by or to the remedial action level and, following the ALARA principle, levels substantially below the remedial action level may be obtainable and appropriate."

The ICRP states that the dose limit, 1 mSv/y (100 mrem/yr), does not apply in the case of intervention (i.e., remedial measures).[7] Furthermore, the ICRP states "The need for and the extent of remedial action has to be judged by comparing the benefit to the reduction in dose with the detriment of the remedial work, including that due to the doses incurred in the remedial work." On the basis of these statements, the subcommittee recommends that NORM regulations have different standards for controlled practices and remedial activities.

Estimation of health risk from radiation doses is a controversial issue. The widely accepted model used to quantify risk from radiation exposure is the linear-no-threshold model. The underlying assumption of this model is that any radiation dose, regardless of the magnitude, will result in some adverse human health effect. The extent of health impact is linear with increasing dose and no threshold dose below which health effects are observed exists. However, this assumption is not supported by the available data collected which has shown that health effects have only been observed in humans at doses above 10 rem delivered at high dose rates. In January 1996, the Health Physics Society issued a position statement entitled "Radiation Risk in Perspective."[8] The society states that there is substantial scientific evidence that the linear-no-threshold model is an oversimplification of the dose-response relationship and results in oversimplification of the health risks in the low dose range. Below 10 rem, health effects are either too small to be observed or are non-existent.

Assessment Studies

Several dose assessment studies have been conducted to evaluate the potential human health impacts from handling and disposal of petroleum industry NORM. A list of relevant studies is provided in the attached List of Relevant Risk Assessment Studies. The extent of health impacts from exposure to NORM-contaminated materials is

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dependent on several factors including final disposition of the waste, applicable routes of exposure and exposure time. Higher potential doses have been estimated for disposal options that provide a small degree of isolation of the NORM (e.g., landspreading). Using information from available assessments, one could conclude that an exemption level of 10 pCi/g would be conservative (i.e., protective of the maximum exposed individual under the most restrictive end-use scenario) with respect to the 100 mrem/yr dose limit. Similarly, a level of 30 pCi/g would be adequately protective with respect to the 500 mrem/yr dose limit and the limit of 2 WLM for radon exposures. These estimates are based on protecting the maximally exposed individual who in many cases may not be realistic. For many foreseeable future scenarios, higher activity concentrations would still result in negligible impacts to human health. In many of the scenarios analyzed in the studies conducted to date, a level of 15 pCi/g would be protective.

Conclusions and Recommendations

The purpose of this issue paper is to provide state regulators with an overview of relevant information in order for them to make appropriate management decisions for NORM. The subcommittee believes that management of NORM wastes should be based on the recommendations of the NCRP. The cost of over-regulation would bear a tremendous burden on the industry, in-particular, small producers. Small producers in the industry are operating on a tight budget and many would not be able to absorb the costs of regulating at the levels mandated for other industries.

On the basis of the issues discussed herein and NCRP Report 116, the subcommittee believes that establishment of different standards for controlled (or licensed) practices and for remediation activities is warranted. For controlled, licensed practices, a screening level for release of contaminated pipe and equipment is appropriate. A screening level of 50 μR/h is consistent with the standard set by several major oil and gas producing states. This level is readily determinable in the field.

For loose waste materials (e.g., scale and sludge) involved in controlled practices, an exemption level of 15 pCi/g is reasonable. NORM waste generated by the oil and gas industry has been shown to have a much lower radon flux rate than waste

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generated from the uranium milling industry. Higher activity limits can be justified on a case by case basis, particularly when it can be demonstrated that the wastes will be managed in a manner that provides a high degree of isolation from humans and the environment.

For remediation activities, the NORM Subcommittee recommends an exemption limit of 30 pCi/g. Lower levels may be justified for some sites, and the need for remediation must be determined on a case-by-case basis. Consistent with the ALARA philosophy, the need for remediation should be justified on the basis of net benefit gained from the action as compared to the detriment incurred by the remedial action.

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Table
Summary of Existing Oil and Gas Producing States
NORM Regulations and Guidelines

State	Exemption Levels/ Release Criteria
Arkansas	**Equipment/Property:** ≤50 µR/h including background at any accessible point; and surface contamination below the following limits (dpm/100 cm^2): for U-nat., U-235, U-238, and associated products (including Po-210) except Ra-226, Th-230, Ac-277, and Pa-231: average of 5,000; maximum of 15,000; and removable of 1,000. for Ra-226, Ra-228, Th-230, Th-228, Pa-231, and Ac-227: average of 100; maximum of 300; and removable of 20. for beta-gamma emitters: average of 5,000; maximum of 15,000; removable of 1,000. **Soil/Material:** <5 pCi/g Ra-226 and/or Ra-228, and <150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 or Ra-228 above background averaged over the first 15 cm of soil below surface, averaged over 100 m^2, and ≤15 pCi/g averaged over subsequent 15 cm soil intervals.
Louisiana	**Equipment/Property:** ≤50 µR/h at any accessible point. **Soil/Material:** ≤5 pCi/g Ra-226 or Ra-228 above background, and ≤150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 or Ra-228 above background averaged over the first 15 cm of soil below surface, averaged over 100 m^2, and <15 pCi/g averaged over subsequent 15 cm soil intervals; or ≤30 pCi/g of Ra-226 or Ra-228 averaged over 15 cm depth increments, provided the total effective dose to individual members of the public does not exceed 100 mrem/yr.
Michigan (Guidelines)	**Equipment/Property:** ≤10 µR/h above background; and surface contamination below the following limits (dpm/100 cm^2): for alpha radiation: average of 100; maximum of 300; and removable of 20. for beta-gamma radiation: average of 5,000; maximum of 15,000; removable of 1,000. **Soil/Material:** ≤5 pCi/g Ra-226 above background **Unrestricted Transfer of Land:** ≤5 pCi/g Ra-226 above background averaged over the top 15 cm soil layer, averaged over 100 m^2, and ≤15 pCi/g averaged over succeeding 15 cm thick soil layers.

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Table
Summary of Existing Oil and Gas Producing States
NORM Regulations and Guidelines

State	Exemption Levels/ Release Criteria
Mississippi	**Equipment/Property:** ≤25 µR/h above background at any accessible point; and ≤2000 dpm/100cm2 from accessible internal and external surfaces. **Soil/Material:** ≤50 microR/hr above background. **Unrestricted Transfer of Land:** ≤50 microR/hr above background at any discrete point; and ≤200 microR/hr including background at every 0.15 meter interval in five boreholes per acre or at least 3 boreholes per site location, one meter deep.
New Mexico	**Equipment/Property:** ≤50 µR/h including background; and removable surface contamination must be ≤1,000 dpm/100 cm^2. **Soil/Material:** ≤30 pCi/g Ra-226 above background, and ≤150 pCi/g of any other NORM radionuclide above background. **Unrestricted Transfer of Land:** ≤30 pCi/g Ra-226 above background in soil in 15 cm layers, averaged over 100 m^2.
Texas	**Equipment/Property:** ≤50 µR/h including background at any accessible point; and surface contamination below the following limits (dpm/100 cm^2): average of 5,000, maximum of 15,000, and removable of 1,000. **Soil/Material:** ≤30 pCi/g Ra-226 or Ra-228, and ≤150 pCi/g of any other NORM radionuclide. **Unrestricted Transfer of Land:** ≤30 pCi/g Ra-226 or Ra-228 averaged over the first 15 cm of soil, averaged over 100 m^2.

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List of Relevant Risk Assessment Studies

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III

DISPOSAL OF NORM BY UNDERGROUND INJECTION

Background

Disposal of exploration and production (E&P) waste liquids, such as produced water and used drilling fluids, by injection into strata that are isolated from underground sources of drinking water, is a common practice. These wells are regulated as Class II wells under the Underground Injection Control (UIC) program of the federal Safe Drinking Water Act. Underground Injection Control regulations do not preclude the injection of oil and gas wastes that contain NORM. Since NORM is known to be a component of produced water, injection has always included NORM as a component of E&P waste.

Oil and gas waste disposal wells are either converted production wells that have been recompleted in a formation that does not contain oil or gas or are drilled and completed specifically for disposal. Wells that inject E&P liquids are operated at pressures below the fracture pressure of the formation and force liquids into the formation matrix. Although NORM wastes are typically solids and occur as scale, sand, silt, sludge and contaminated soil, solids can be crushed, ground and otherwise processed and treated and then entrained with liquid wastes to an injectable slurry that will not plug the formation.

To inject NORM wastes that contain a relatively high concentration of solids, wells must be operated at pressures that cause the formation to fracture. Depending on the depth and geology, fractures can be horizontal or vertical. "Fracture injection" to dispose of wastes is not common and is not authorized by many regulatory agencies. Adverse environmental impact is a concern should the waste not be confined to the disposal interval. However, studies have shown that fracture azimuth and length can be predicted and monitored to ensure waste containment,[1] and that repeated injections could be carried out that allows the injection of large volumes of waste.[2]

Although disposal wells are numerous in all oil and gas producing states, few states have allowed disposal by injection of E&P NORM waste.[3] For example, Texas, which had 8,099 active disposal wells as of December 1998, has permitted only seven wells for the disposal of NORM wastes since 1995. Additionally, Louisiana has permitted only one disposal well for E&P NORM waste disposal, and the well is reserved for noncommercial purpose only.[4]

NORM disposal by injection has the potential to dispose of more than 100,000 barrels of waste in a single well, depending on the geologic characteristics of the

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formation. When a well is abandoned, it may be plugged under the standards for disposal wells with no special requirements necessary as a result of NORM injection.

According to one study, the cost to dispose of E&P NORM waste varied greatly.[5] The cost of NORM injection is increased significantly above the cost of other E&P wastes due to treatment and processing, handling and decontaminating containers, and laboratory analyses. Nevertheless, the report indicates that NORM injection is cost competitive with other NORM disposal alternatives.

Issues

Public Notice

The disposal of E&P wastes by injection requires notice under the Underground Injection Control regulations. The actual notice requirements vary from state to state due to the flexibility allowed for state-delegated programs for Class II (oil and gas related) injection wells. Because NORM-impacted material is a component of E&P wastes, it could be problematic whether or not notice should be specifically required for E&P NORM waste because of public concerns regarding radioactive materials.

Nevertheless, the injection of NORM wastes, particularly at commercial disposal wells, is a continuous activity that includes the handling and management of large volumes of NORM waste. In fact, two large commercial NORM injection facilities have operated for years without incident nor have their operations generated significant public concern. Notice requirements, if any, should be consistent with existing state law.

Fracture Injection

Disposal at pressures that cause formation fracturing might be prohibited by some state regulatory programs due to environmental concerns although offshore and pilot projects indicate that controlled fracturing and fracture monitoring is possible. The regulatory posture toward fracture injection is an issue that is still subject to debate and will need to be considered if the disposal technology will be applied to NORM waste.

Risk Associated with the Disposal of NORM by Injection

One report concluded that the estimated doses associated with injection appear to be so low that the risk to the public is negligible.[6] A groundwater flow and contaminant transport model were used to model injection of NORM. Using conservative assumption doses from ingestion of groundwater, that related to injection

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well failures at various calculated depths. In the base-case scenario in which the casing failure occurred near the bottom of the aquifer, the model predicted a dose equivalent to 0.01 mrem/yr when the receptor water well was 0.3 km downgradient from the injection well.

In the model, no attempt was made to determine the well types, injection pressures or rates. A volume of 100,000 barrels of NORM with a concentration of 2,000 pCi/L was assumed to have exited the well casing at various depths in geologic layers. Therefore, the model is applicable to both matrix and fracture injection.

A related study of the injection of NORM into salt caverns also concluded that this disposal option presented negligible risk to the public.[5] Even in the worst-case scenario, in which the cavern roof failed and the NORM was released into a shallow drinking water aquifer, the potential lifetime dose to the receptor was only 1×10^{-8} mrem.

Conclusions

Injection of slurries or solids containing NORM-impacted materials presents a low risk disposal alternative for oilfield wastes that occur as particles or have been treated and processed to injectable size. Injection wells are capable of disposing of large volumes of such waste at costs that are comparable to other disposal alternatives. Regulatory controls are in place through underground injection control programs to accommodate the disposal of E&P NORM wastes into conventional disposal wells. Public notification specific to NORM injection activities should be considered. Review of regulatory requirements for fracture injection and cavern disposal of NORM waste is warranted.

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IV
DISPOSAL OF NORM IN ABANDONED WELLS

Background

An oil or gas field well that is being plugged and abandoned could provide a repository for NORM-contaminated tubulars or other material. NORM-contaminated equipment that is deteriorated to the degree that it is no longer usable has no value as scrap or is not accepted as scrap, or cannot be easily decontaminated, also could be disposed of in an abandoned well if allowed by state regulations. Abandoned wells also could host NORM-contaminated solids such as tank bottoms or contaminated soils. Louisiana, Michigan, Mississippi, New Mexico and Texas have regulations for the encapsulation of NORM in plugged and abandoned wells.[1]

Historically, in response to favorable economic conditions or technical developments, plugged and abandoned oil wells have been reopened and returned to production or recompleted in a different zone in response to a new oil or gas discovery. Abandoned wells that encapsulate NORM negate such opportunities.

A limiting factor is the small capacity of a wellbore. Ordinarily, well production casings are 4 ½ or 5 ½ inches in diameter and can accommodate only a single string of tubing and only a few hundred cubic feet of NORM solids.

The expense of placing NORM into a well during plugging operations substantially raises costs. In part, increased costs are caused by increased rig time. Costs also involve preparing the material for disposal and regulatory compliance. One study found that the cost of NORM disposal by plugging and abandonment tended to be higher than for other options.[1]

The cost might limit this disposal alternative. A survey by the Railroad Commission of Texas in 1996 found that very few requests for NORM plugging and abandonment were received. The Louisiana Office of Conservation also observed a decline in request for NORM plugging and abandonment in the year 1996.

Issues

Type of NORM Material

Although the disposal of NORM by encapsulation in a plugged well is more conducive to the disposal of NORM contaminated tubulars and other small pieces of equipment, the placement of other wastes such as tank bottoms and soils inside

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tubulars or mixed with drilling mud and placed between cement plugs is a possibility and is allowed by some states (e.g. Texas).

Public Notice

Disposal of NORM into a plugged well is a one-time, volume-limited operation, which should be weighed when considering public notices. If all of the waste was generated on the same tract where the disposal will occur, then notice might be unnecessary. In any event, notice requirements should be consistent with state law and landowner consent.

Well Identification/Recordation

The encapsulation of NORM in a plugged well is assumed to be permanent; however, the possibility of intrusion and inadvertent exposure must be minimized by institutional controls. These should include red-dyed cement in the surface plug; a three-bladed radiation symbol welded to the top casing plate; notation on the plugging record; and deed recording.

Risk Associated with Placement of NORM in a Plugged and Abandoned Well

A Department of Energy (DOE) study concluded that the estimated doses associated with downhole encapsulation appear to be so low that the risk to the public is negligible.[2] To model the risk related to downhole encapsulation, it was assumed that a casing failure occurred and a 100,000-barrel volume of 2,000 pCi/L radium dissolved instantaneously. It then moved horizontally into a porous formation or vertically along the wellbore. The model, which was also used to estimate the dose risk related to injection, overstates the volume by a factor of 100 for a typical well, assumes the material will be fluid, and is capable of migrating from the wellbore. Even in the worst-case scenario when a casing failure occurred at the same depth as the receptor, a water supply well located 0.3 km downgradient, the equivalent dose concentration to the person who ingested the water was approximately 1 mrem/yr. In realistic scenarios, the risk to the public certainly appears negligible, being several orders of magnitude lower than the worst-case scenario.

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Conclusions

Encapsulation of NORM materials in a well that is being plugged and abandoned presents a low risk to the environment, particularly for oilfield tubulars that are no longer usable due to deterioration and have little or no value as scrap metal. To a lesser degree, other small pieces of equipment and very small volumes of sand and sludge can be placed in plugged wells. Volume limitations and cost are limiting factors, along with deed restrictions.

Appropriate regulatory controls for NORM encapsulation could be effected in conjunction with the plugging and abandonment rules of the regulatory agency.

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V
LANDSPREADING

Background

Landspreading is a long-standing method used to dispose of a wide variety of nonhazardous E&P wastes* containing hydrocarbons, including drill cuttings, produced solids, tank bottoms, pit bottoms, waste crude, pipeline scales and sludge, and pigging wastes. In general, landspreading represents one of the least expensive methods for disposing of hydrocarbon-bearing wastes. It also is used frequently for *in situ* remediation of soils contaminated by spilled hydrocarbons

Landspreading is a relatively simple process that depends on the availability of oxygen, water and bacteria naturally present in the soil to break down the hydrocarbon components of a waste stream. Sometimes the practice entails nothing more than spreading the waste over a tract of land using standard earth-moving equipment. Tilling the waste into the soil and adding water and/or fertilizers (e.g., nitrogen-rich manure) will accelerate the biodegradation process.

Most often, landspreading occurs on lease sites at or near the point of waste generation, but wastes also are transported to centralized, noncommercial landspreading or to commercial landspreading facilities. Regulations governing landspreading vary from state to state with respect to permit requirements, application restrictions, siting restrictions and final treatment levels. Often, landowner notification or permission also is required. The intent of these regulations is to limit the potential for environmental contamination and to minimize the impact to the landowner.

Texas and New Mexico allow the landspreading of NORM on-site. In Texas, an application for a commercial landspreading facility can be permitted by the Railroad Commission under specific conditions. In both states, landspreading of NORM-impacted wastes is allowed provided that, after landspreading, the state's respective radium exemption level is met (5 pCi/g radium-226 and radium-228 above background in Texas and 30 pCi/g Ra-226 above background in New Mexico).

In Texas, landspreading of NORM waste is allowed without a permit on the lease site where the waste was generated, provided the resultant radium-226 and radum-228 concentration in the soil is ≤5 pCi/g above background levels [16 TAC 3.94(e)(2)(A)].

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* Nonhazardous E&P wastes include wastes that are exempt from regulation as hazardous waste under the Resource Conservation and Recovery Act (RCRA) and related state statutes and nonexempt wastes that are not listed as hazardous and do not exhibit any hazardous characteristics.

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Off-site surface disposal of NORM is allowed in Texas provided the same concentration standards are met and a permit is obtained [16 TAC 3.94(g)].

In New Mexico, in accordance with requirements contained in the NORM regulations promulgated by the Environment Department [Title 20, *New Mexico Administrative Code (NMAC)*, Chapter 3, Part 1, Subpart 14, Section 1407(A)], on-site surface disposal of NORM-contaminated soils is allowed provided a license and a Subpart 13 permit are obtained, and the operator complies with the requirements of Oil Conservation Division (OCD) Rule 711 that govern surface waste management facilities. Under this regulation, licensees may blend or disk NORM-contaminated soil in place, provided the soils at the site were contaminated with NORM prior to promulgation of the regulation (i.e., August 3, 1995) and provided the exemption standard for Ra-226 in soil of 30 pCi/g above background is not exceeded. Under 19 NMAC 15.I.714(c)(1), the NORM disposal rules promulgated by the OCD, disposal is allowed at centralized surface waste management facilities, provided it is disposed of in a manner that is protective of the environment, public health and fresh waters. The OCD further requires that the facility must operate under a Rule 711 permit.

Risk Assessment Results

Potential doses associated with landspreading of NORM-impacted wastes have been assessed for both workers and the public.[1-3] Although these studies use different methodologies and draw different conclusions about specific analyses, they indicate that landspreading presents negligible risk to workers and the public under many circumstances. The two primary factors, which determine the level of potential exposure, are radium concentrations in the soil after landspreading and future use of the land (i.e., whether the property will be used for recreational, agricultural, industrial or residential purposes). Potential exposures do not appear to be of concern for workers or future recreational or agricultural users of the property even when the resultant radium concentrations after landspreading are quite high (i.e., several hundred pCi/g).[3] One study[3] indicated that for future industrial or residential users, potential exposures are variable depending on radium concentration, construction practices (e.g., degree of re-grading or excavation of surface soils), and on-site erosion rates.

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Conclusions

Landspreading can be a disposal option if appropriate regulatory controls are established. One risk assessment[3] indicates that for certain circumstances, landspreading of NORM can result in elevated radiation doses to future residential inhabitants. State agencies could consider authorizing on-site landspreading provided the radium concentration after landspreading does not exceed the state's NORM exemption level and land owner permission is obtained. For any off-site NORM landspreading, public notice of a NORM disposal application would be appropriate.

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VI
LANDFILL DISPOSAL

Background

The design and operation of all permitted solid waste landfills are governed by requirements contained in the Resource Conservation and Recovery Act (RCRA). Under RCRA, solid waste includes any discarded, abandoned, recycled or inherently waste-like material. Hazardous wastes include solid wastes that are listed as hazardous by either the EPA or a corresponding state agency and wastes that exhibit any of four hazardous characteristics (i.e., ignitability, corrosivity, reactivity, and toxicity). Nonhazardous wastes are solid wastes that are not listed, do not exhibit a hazardous characteristic or are not otherwise exempted. Radioactivity in solid wastes is not regulated as hazardous under RCRA. Solid waste landfills generally are divided into hazardous and nonhazardous categories referred to as Subtitle C and Subtitle D landfills, respectively, after the classification established in RCRA. Subtitle C of RCRA (in 40 CFR, Part 264) contains requirements for the management and operation of hazardous waste landfills and Subtitle D (in 40 CFR, Parts 257 and 258) contains requirements for the management and operation of nonhazardous waste landfills.

The U.S. Environmental Protection Agency (EPA) established these federal regulations as standards for states to adopt in their solid waste management programs. They address the location, design, construction, operation, monitoring and closure of solid waste landfills. Individual states that have been granted authority to operate Subtitle C or Subtitle D permitting programs may adopt the federal regulations by reference, or they may promulgate their own regulations. State regulations must be at least as stringent as the federal regulations before the EPA will grant permit program approval. Classification schemes for nonhazardous waste landfills vary from state to state and often establish more distinctions between types of landfills than are included in the federal rules.

Regulations Governing Disposal of NORM in Landfills

Under existing state regulations, provisions for disposing of NORM-impacted wastes in commercial landfills are limited. Exempt E&P wastes refer those exempted by the EPA and most state agencies from regulation as hazardous.[1] While most states allow the disposal of exempt E&P wastes in commercial landfills, only a few explicitly allow or prohibit the disposal of NORM-impacted wastes in landfills. Michigan has issued guidelines for the disposal of materials containing up to 50 pCi/g of Ra-226,

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including petroleum industry NORM, in municipal nonhazardous waste landfills. Most of the wastes going to municipal landfills are from households, although small quantities of other types, including hazardous wastes, also may be disposed of in a municipal landfill. Standards specific to municipal landfills are contained in 40 CFR 258; under federal rules, these standards are more stringent than the standards for other types of nonhazardous landfills. In Louisiana, E&P wastes containing up to 30 pCi/g Ra-226 or Ra-228 may be disposed of in permitted nonhazardous oilfield waste facilities. Other states may allow the disposal of petroleum industry NORM in Subtitle C or D landfills; however, such disposal may require special approval and is likely to be evaluated on a case-by-case basis.

State approval for the disposal of radium-bearing wastes in landfills has some precedent at the federal level. In June 1994, the EPA issued its *Suggested Guidelines for the Disposal of Drinking Water Treatment Wastes Containing Radioactivity*.[2] Although these guidelines are not applicable to petroleum industry NORM wastes, the radionuclides addressed by the guidelines include Ra-226 and Ra-228, and some of the water treatment NORM wastes are similar in generation and concentration levels to the petroleum industry's NORM wastes. As a result, the risk-based disposal guidelines for radium-bearing wastes have some relevance to disposal issues facing the petroleum industry.

Colorado, which does not have a NORM regulatory program, has adopted regulations governing the disposal of drinking water treatment wastes containing NORM. Water treatment sludge containing up to 40 pCi/g total alpha activity may be disposed of at a nonhazardous, solid waste disposal facility, provided there are no free liquids present in the sludge, its pH is $\geq$6, and the landfill meets specific operating and monitoring requirements (6 CCR 1007-2, Section 12). Under Colorado regulations it is possible that other wastes falling below this 40 pCi/g threshold, including petroleum industry NORM, also are disposed of in nonhazardous landfills. No other states appear to have adopted similar regulations.

Under the suggested EPA guidelines, NORM-impacted wastes containing between 3 and 50 pCi/g of total radium could be disposed of in both nonhazardous and hazardous landfills. Specifically, the EPA recommends disposal methods that "...provide reasonable assurance that people will be protected from radon releases from the undisturbed waste and that the waste will be isolated to reduce the risk of disturbance or misuse." The EPA further recommends that construction of a building on a disposal site containing Ra-226 wastes be avoided or, at least, any such buildings should not be used for residential or commercial purposes. Although the guidelines do

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not specify the measures needed to achieve these goals, they indicate that the disposal facility should be in compliance with RCRA Parts 257 and 258, (i.e., the regulations governing design, construction, operation and monitoring of nonhazardous landfills) and that requirements for hazardous waste facilities (such as those contained in RCRA Part 264) be considered to ensure adequate groundwater protection. For wastes containing between 50 and 2,000 pCi/g of total radium, the EPA recommends that disposal decisions be made on an individual basis. At a minimum, the EPA recommends disposal of these wastes in a RCRA hazardous waste unit. The EPA also recommends that wastes within this concentration range be considered for disposal at a licensed NORM or low-level radioactive waste disposal facility. When the concentration exceeds 2,000 pCi/g of total radium, the EPA recommends disposal in accordance with the provisions of the Atomic Energy Act for source materials.

Risk Assessment Results

Assessments of risks relating to disposal of petroleum industry NORM in Subtitle D landfills (i.e., landfills permitted to receive primarily nonhazardous wastes) have been conducted.[3,4] These studies evaluated potential doses to workers and the public associated with the disposal of solid wastes containing 50 pCi/g of Ra-226. Different assumptions were made regarding the volume of NORM waste being disposed of, the size of the landfill, the placement of the NORM waste within the landfill and landfill design and performance. Both studies conclude that potential doses to workers associated with landfill NORM wastes are negligible. Estimates of doses to residents living near the landfill during the disposal action also are negligible.[4] Similarly, for most future land use scenarios (i.e., residential, industrial, recreational and agricultural), potential doses to the public are well below 100 mrem/year, even when it is assumed that landfill liners and covers are breached. Under a few circumstances, potential doses to the public could be of concern; however, states can control these circumstances to prevent any public exposures. These controls might need to address the total volume of Ra-226 placed in any single landfill and/or cell, the depth of the NORM wastes with respect to the landfill cap and institutional controls protecting the integrity of the landfill cap and liner.

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Conclusions

State-level NORM oil and gas regulatory programs should consider the disposal of nonhazardous solid wastes containing up to 50 pCi/g Ra-226 in either nonhazardous or hazardous landfills. In addition, states should consider the landfill disposal of waste streams containing higher concentrations, up to 2,000 pCi/g Ra-226, in hazardous waste landfills. State agencies promulgating NORM rules would need to coordinate the acceptance of these types of disposal with the agency that regulates solid waste disposal.

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VII
DISPOSAL OF NORM BY RE-MELTING

Background

Although NORM-impacted scrap metal generated by the petroleum industry currently is not disposed of by re-melting, this form of recycling could represent a viable disposition option for this waste stream. However, the scrap metal recycling industry faces a myriad of issues making it difficult to accept NORM-impacted materials at its facilities. Until these issues can be resolved, re-melting of the petroleum industry's NORM-impacted scrap metal is unlikely to become a widespread practice.

Scrap metal recycling is an important industry in the United States, providing a significant portion of supply of all types of metal.[1] While domestic steel consumption has declined over the last two decades, the scrap metal share of the iron and steel market has increased.[2] In 1997, scrap metal processors handled about 66 million to 70 million metric tons of scrap iron and steel,[3,4] of which approximately 46% was comprised of obsolete scrap (i.e., worn out, broken and discarded objects).[4] Recycled ferrous scrap made up approximately 72% of the country's raw steel production in 1997,[4] up from around 33% in 1980.[2] The international market for scrap metal recycling also is significant, with industrialized nations exporting scrap metal to developing nations as demand and business conditions dictate. In 1997, the U.S. exported approximately 8.9 million metric tons of ferrous scrap, having an estimated value of about $1.3 billion.[4]

These statistics reflect the fact that iron and steel scrap are vital raw materials for the production of new steel and cast iron products.[4] Recycling of scrap metal has become increasingly significant for several reasons. From an environmental perspective, recycling of scrap metal has become important because re-melting scrap (1) requires much less energy than the production of iron or steel products from iron ore; (2) reduces the burden on landfill disposal facilities; (3) prevents the accumulation of abandoned steel products in the environment; and (4) avoids environmental damage resulting from replacement of the scrap metal through raw material production.[1,4] Because recycling scrap reduces the need to mine and process raw iron ore, health risks associated with mining and refining the metal (i.e., occupational injuries) also would be reduced.[1] From a technological perspective, recycling of scrap metal has become more significant with the proliferation of electric arc furnaces (EAFs), particularly through growth of the "mini-mills" that target specific markets.[5] EAFs use nearly 100% scrap iron and steel for the furnace charge, as opposed to basic oxygen furnaces (BOFs), which use approximately 30% scrap, and open-hearth furnaces, which

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use around 50% scrap.[1] In the first half of 1998, EAFs consumed almost 70% of all recycled ferrous scrap,[6] up from only 37% in 1990.[1]

The scrap metal recycling industry generally will not accept any scrap metal that is radioactive. A specialized metal recycling segment of the radioactive waste handling industry does recycle radioactive scrap metal, generated by the U.S. Department of Energy and the nuclear power industry. While thousands of tons of this metal have been recycled within these sectors, very little has been smelted and recycled for public use.[1] These facilities have the capacity to handle a portion of the potential inventory of NORM-impacted scrap generated by a variety of industries, including the petroleum industry.

The reasoning behind the scrap metal recycling industry's reluctance to process radioactive scrap is understandable. In the past, there have been instances in which facilities have been contaminated by inadvertent re-melting of radioactive sources.[4,7,8] Most of these incidents appear to have involved sealed radioactive sources, such as Cs-137 level gauges, Co-60 therapy devices, and radium devices. Losses resulting from decontamination, waste disposal and lower profits reportedly have ranged from $7 million to $23 million per incident. To protect themselves from such losses, most metal recyclers have installed radiation detection systems to screen radioactive scrap. Usually, shipments found to contain radioactive material at any level are rejected and returned to the supplier. If possible, when a sealed source is involved, it is confiscated.

None of these documented incidents of facility contamination has involved scrap metal containing NORM; nonetheless, NORM-impacted scrap frequently is rejected by radiation detection systems and returned to the supplier.[7,8] According to estimates by the American Petroleum Industry (API), approximately 600,000 tons of NORM-impacted scrap are generated annually by the oil and gas industry, 75% of which would be rejected by the scrap recycling industry based on the use of radiation detection systems.[9,10] Prior to the installation of these systems in the late 1980s, NORM-impacted scrap was routinely processed by the metal recycling industry.

Radiological Risk Associated with Re-Melting NORM-Impacted Scrap

Several studies[11,12] have indicated that re-melting of equipment containing radium-bearing materials presents minimal risk to the public, and that risk to workers can be controlled. Bench-scale tests funded by the Petroleum Environmental Research Forum (PERF)[11] indicated that during the re-melting process, approximately 98% of the Ra-226, Ra-228 and Th-228 was recovered in the slag generated during re-melting. The

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partitioning of Ra-226 to the offgas was calculated to be 0.0004%. Partitioning of Pb-210 and Po-210 were inconclusive.

On the basis of these measurements, estimated potential radiological doses to the public from airborne emissions, exposure to recycled metal or exposure to recycled slag are negligible.[12] Potential radiological doses to workers involved in the transportation, loading and unloading, re-melting and fabrication of the NORM-impacted scrap and resultant metal also are negligible if the NORM level of the feed is controlled.[12]

Recycling Industry Concerns

While re-melting of NORM-impacted scrap is technically feasible and presents little risk to human health and safety, there are several issues that must be addressed before metal recyclers will accept NORM-impacted scrap on a widespread basis. These issues are tied to either regulatory or economic constraints, or both. For the most part, economic constraints have not been quantified; however, the recycling industry can predict some degree of cost impact.

There are five primary areas of concern.[13] One relates to segregation of the inbound feed material. Using the fixed load detectors currently installed at most facilities, it is not possible to identify specific types of radioactive contamination (i.e., a Cs-137 sealed source versus Ra-226 in pipe scale). Portable multi-channel analyzers could be used to identify specific radionuclides; however, recyclers would not be able to distinguish between discrete NORM (e.g., Ra-226 sealed source) and diffuse NORM (e.g., Ra-226 in pipe scale) without taking numerous individual measurements from each shipment that trip the detector's alarm. These limitations might make it difficult for the industry to cost-effectively segregate out larger sources of radiation from scrap containing NORM.

A second concern is that in order to process radioactive materials, a recycling facility might be required to obtain a license under Nuclear Regulatory Commission (NRC) and state regulations, unless specific exemptions were granted. These licenses would require extensive radiation safety programs to ensure that feed streams and discharge effluents are within established regulatory limits. The expenses associated with obtaining a license and implementing the required radiation safety programs might be prohibitive for the scrap recycling industry. For the most part, regulators have made no exceptions to these requirements for facilities that would process NORM-impacted scrap, even though the generators of the NORM-impacted scrap are not subject to such

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regulation. In Texas, a few mills have received regulatory approval to melt small quantities of NORM-impacted pipe.[5]

A third concern is the need to comply with existing, proposed or evolving volumetric standards for radioactivity in metal intended for "free release." These standards are being established to address nuclear industry materials, not petroleum industry NORM; however, the recycling industry has no regulatory guidance or other basis for making this distinction. Three countries currently have volumetric standards for total radioactivity in metal: 1) in Germany, the standard is 1 Bq/g (27 pCi/g); 2) in Sweden, the standard is 0.1 Bq/g (2.7 pCi/g); and 3) in Great Britain, the standard is 0.4 Bq/g (10.8 pCi/g).[13] In addition, the International Atomic Energy Agency has recommended an international standard of 0.3 Bq/g (8.1 pCi/g).[14] National standards for volumetric contamination of metals are being considered by a number of agencies, including the NRC, U.S. Environmental Protection Agency, Conference of Radiation Control Program Directors, and American National Standards Institute. However, proposed regulations probably are several years away. Exceeding standards of this nature could limit the potential market for re-melted steel by preventing its "free release" for unrestricted use. To ensure these standards are met, recyclers would need to accurately measure the total activity level of each batch entering the smelter and would need to know with certainty how much of the radioactivity would remain after re-melting. Given the technological constraints on characterizing inbound feed material discussed above, it is hard to predict how difficult and costly it would be to consistently meet these standards or verify compliance.

A fourth concern is the potential radioactive contamination of baghouse dust and slag, byproducts of the re-melting process that have commercial value. Scrap metal recyclers are concerned they will have fewer disposition options for the baghouse dust and slag if they have a radioactive component.

A fifth concern is that steel recyclers sell their product to consumers who have a strong phobia of and bias against radiation and radioactivity. If recyclers see a risk that they might lose market share by being labeled as a "radiation" site, they might refuse to process any material suspected of being contaminated. Given the current stigma of radiation, this scenario is quite possible.[15]

Alternative Disposal Options for NORM-Impacted Equipment

The inventory of NORM-impacted scrap metal generated by the petroleum industry each year must be handled in some fashion. Decontamination of the equipment is one option. While decontamination presents negligible risk to workers and the

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public,[12] it might not be a suitable alternative for a significant portion of the scrap metal inventory. Pipe, tubing and storage vessels can be decontaminated with some effort; however, a large portion of the scrap inventory consists of small items that cannot be easily cleaned (e.g., filters, and valves). Much of the rest of the inventory includes obsolete, worn out items that have no future use; cleaning these items before final disposition could be economically prohibitive.

Disposal of NORM scrap metal as low-level radioactive waste at a licensed facility is expensive. Given that the nation's current disposal capacity for low-level radioactive wastes is limited, from a policy perspective, it may make sense to reserve this capacity for that category of wastes, particularly if alternative disposal options for NORM materials are adequately protective of human health and the environment.

If the NORM scrap inventory is not recycled, production of additional raw steel will be required. Health risks and environmental impacts associated with replacement of the metal (i.e., those associated with mining, refining and smelting iron ore)[1] are greater than those associated with re-melting NORM-impacted scrap.[12]

Conclusions

From a health risk-based perspective, re-melting of NORM-impacted equipment appears to be a viable recycling option. As a result, within their NORM regulatory programs, states should consider the re-melting of petroleum industry equipment containing NORM at a level greater than the exemption level defining regulated NORM.

However, oil and gas regulators and the petroleum industry must recognize that a myriad of issues prevents re-melting of NORM-impacted scrap metal on a widespread basis. Before this recycling option can become widely available to the petroleum industry, numerous complex regulatory and economic issues must be addressed. The debate over this topic is occurring on both a national and international level and is not likely to be resolved quickly.

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VIII
NORM SURVEY METHODOLOGIES

Purpose

This section provides general guidance for NORM survey methodologies, such as instrument selection, calibration, and specific survey techniques that may be used to measure NORM. This guidance does not represent the only correct way to survey for NORM impacted materials or equipment. New advances in instrumentation and survey methods occur continuously and state NORM rules should have sufficient flexibility to accommodate new and improved techniques as they are developed.

All of the information presented in this section, except where otherwise noted, have been derived from the API's *Bulletin on Management of Naturally Occurring Radioactive Materials (NORM) in Oil & Gas Production*.[1] Several states have developed NORM survey protocols that should be considered as additional guidelines. In addition, some examples of comprehensive survey protocol and methodology documents have been included in the references to this section.[2,3]

Types of NORM Surveys

NORM surveys in oil field operations generally involve detecting NORM deposits that have accumulated in production and processing equipment or have impacted the soil surface from a release or specific waste handling practices. The type of survey that is conducted can vary depending upon the purpose of the survey and the particular type of NORM material and radiation being measured. As an example, if all a survey is required to do is determine if some NORM material is inside a process vessel, a simple external screen with a scintillation detector will usually be sufficient. If a survey is being performed to determine if a NORM impacted piece of property (land) may be released back to the general public, a more detailed survey including soil samples may be required. Typical NORM surveys involve measurements of the following:

- Gamma levels from external equipment surfaces;
- Gamma levels from accumulations of scale and sludge;
- Gamma levels from soil and/or soil impacted by NORM;
- Alpha or beta radioactivity contamination levels on external and internal surfaces;
- NORM concentrations in media such as soil, scale and sludge, and water.
- Personnel external radiation exposures;
- Personnel internal exposure due to airborne radiation; or
- Various combinations of the above.

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Gamma Surveys from External Equipment Surfaces

Survey instruments commonly used for the detection and measurement of NORM are instruments equipped with a one- or two-inch sodium iodide scintillation detectors. These usually are specific to gamma radiation, and will not detect either alpha or beta radiation.

Production equipment, particularly water-handling equipment, should be surveyed for external gamma radiation emissions. In addition, equipment being removed from service, released for maintenance work, or released for unrestricted use (e.g., sold or scrapped) should be surveyed for NORM.

Each piece of equipment should be systematically surveyed. Background gamma radiation levels should be recorded in a close-by area not impacted by NORM. This will help the surveyor detect deposits related to NORM. Typical background gamma radiation levels range from 1-2 μR/h offshore and 3-15 μR/h on land. The surveyor should pay particular attention to areas where solids may accumulate, such as pipe elbows. The meter probe should be in close proximity with the external surface of the equipment (normally not more than 1 centimeter away) and moved slowly across the equipment surfaces. Equipment NORM readings exceeding 50 μR/h, including background or other state regulatory levels, should be identified for further evaluation or marked as containing NORM.

> NOTE: The steel walls of equipment and pipe significantly attenuate the gamma radiation that may be emitted from NORM deposits, the amount of attenuation being proportional to wall thickness. Exposure rate measurements obtained in contact with the scale and sludge deposits after removal from equipment will typically be higher than would have been measured at the external surfaces of equipment before removal of the material. Equipment whose external readings measured less than 50 μR/h may contain deposits whose readings would exceed that level if removed.

Gamma Radiation from Accumulated Scale and Sludge

The same survey instruments used for surveying equipment may be used to survey accumulations of scale and sludge. Typically, when NORM scale is removed from tubulars or pipes, or NORM sludge is removed from vessels and tanks, the material is accumulated in drums. Although the NORM activity level remains essentially unchanged, gamma radiation levels may increase significantly due to the consolidation of the deposits. In some cases these levels may be high enough to trigger specific storage and handling requirements per state radiation protection regulations. In addition

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to scales and sludges, workover fluids are subject to becoming NORM-impacted, by incorporation of NORM-impacted scale or sludge particles.

Gamma Radiation from Soil

Soil may become NORM-impacted as a result of various past and current production and maintenance operations, such as equipment cleanout, tubular descaling, produced water pits, and landfarming of tank bottoms.

Soil surveys should be done in a planned systematic manner to avoid unnecessary expense and ensure adequate site characterization. Soil surveys may also use the same type of survey meters used for equipment measurements. Typically the survey instrument probe should be held within a centimeter or two above the ground while conducting the surveys. The survey should be conducted over the subject land area on a delineated grid. The grid spacing should be optimized for the size of the area to be surveyed, as well as for the potential for identifying areas with elevated readings; the smaller the area to be surveyed, the smaller the grid spacing. Some regulatory agencies require that grid spacing not exceed 10 meters (~30 feet). Specific details of the grid survey such as grid size and sample location within the grid should be documented.

Areas exhibiting elevated readings may be identified for sampling and marked. To determine representative activity levels, soil samples should be collected from areas exhibiting gamma radiation levels exceeding 50 μR/h above background, or lower as dictated by some state requirements. The soil samples may either be analyzed onsite (if adequate instrumentation is available on site) or shipped to a qualified laboratory for analysis based on laboratory recommended sampling protocol. Reasons for soil sampling include, determining compliance with state exemption limits prior to release, before the sale or purchase of the lease and to characterize the existing NORM impact on a site. Background soil samples should be collected from a nearby non-NORM impacted area of the site to document the existing soil background levels for total radium.

Alpha/Beta Radioactivity Levels on External and Internal Surfaces

Survey instruments commonly used to detect alpha/beta levels in external and internal surface surveys are different than those used for gamma survey work. Usually, a count rate meter equipped with an alpha or an alpha/beta probe is used. The readings from these meters are usually recorded in units of counts per minute (cpm). These

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readings are then converted by a factor depending on the meter used for comparison to a specific exemption limit. (i.e. 1000 dpm per 100 cm^2). The exemption limits are usually presented in two parts, one for fixed surface contamination and the other (lower limit) for removable surface contamination. Wiping a 100 cm^2surface with moderate pressure using a filter paper or cloth collects samples for comparison to the removable surface limit. The paper or cloth is then analyzed by appropriate survey meters. Usually wipe samples are sent to a laboratory for follow-up analysis. Because of the difficulty of obtaining and interpreting these limits many state rules choose not to apply them to NORM impacted equipment.

NORM Concentrations in Soil, Scale, Sludge and Water

Activity measurements of various NORM impacted media usually requires that samples of the impacted material be collected and sent off to a qualified laboratory for specific analysis for the isotopes of interest, usually radium-226 and radium-228. As is usual for any field sampling, specific laboratory protocols should be followed to avoid sample contamination and increase result accuracy.

Several relatively new technologies that measure radionuclide concentrations *in situ* have been developed. State regulators may accept the results of *in situ* analyses of NORM concentrations in lieu of laboratory analyses, particularly if the accuracy of the *in situ* analyses can be demonstrated through the collection and analysis of a set of control samples sent to an off-site laboratory. In general, the use of *in situ* analyses often results in reduced site characterization costs because field analytics typically are less expensive on a per sample basis than off-site laboratory analyses. Their use eliminates lengthy turn-around times and can allow one to collect the full suite of data needed to support decision-making in a single field exercise. The applicability and cost-effectiveness of *in situ* analyses has been successfully demonstrated at a petroleum industry NORM site in Michigan.[3] In this demonstration project, the use of *in situ* analyses was coupled with an adaptive decision-making process that allowed site characterization and remediation activities to be more efficiently focused to problem areas and to be bundled into one field exercise.

Personnel External Radiation Exposure

The Occupational Safety and Health Administration (OSHA) regulations permit occupationally exposed employees to receive a maximum radiation dose of 1250 millirem per calendar quarter. Typically, work area radiation levels in the general industry segment are far below this regulatory level. Therefore, routine personnel

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radiation exposure surveys are not frequently done. It should be noted that OSHA regulations require the use of personnel dosimeters in areas where personnel are likely to receive greater than 312.5 millirem per calendar quarter. This equates to 600 μR/h for a 40-hour workweek. If radiation levels approach this value in routine work areas, evaluation of personnel radiation exposure should be considered.

Personnel radiation exposures may be evaluated either by having personnel wear thermoluminescent (TLD) dosimeters or film badges, which must be returned to and analyzed by the supplier. Alternatively, surveys with a shielded energy compensated Geiger Muller (GM) probe or ion chamber survey meter capable of providing a readout in millirem/hour may be conducted. When the survey method is used, work location and time information is required to estimate radiation dose.

Personnel Exposures to Airborne Radioactive Material

NORM deposits in equipment and piping do not present any airborne exposure concerns during normal operations. During maintenance or dismantling activities, airborne NORM exposure concerns are minimized by the application of typical industrial hygiene practices (such as keeping NORM deposits wet and using respiratory protective equipment). On the other hand, during grinding, cutting, chipping and sanding, and during removal of NORM scale and sludge, the NORM may become airborne. Under such conditions, it is advisable to evaluate employee exposure to ambient airborne concentrations of NORM.

Ambient (area) airborne NORM concentrations are normally evaluated by filtering a high-volume air sample and having the filter analyzed by a radiometric laboratory. The sample results are then compared to the Derived Air Concentration (DAC) limits for radium-226 or lead-210.

Personnel exposures are evaluated by the same sampling and laboratory methodology except that personnel wear lapel air samplers that operate at 2 to 5 liters per minute versus the higher flow rate ambient air pumps. In both techniques, it is essential to know the volume of air sampled along with the radiometric results in order to calculate the airborne NORM concentrations in microcuries per milliliter. To help put these exposures in perspective, the NORM decontamination industry has not found overexposures of its personnel to the DAC limits despite the fact that they work on nothing but NORM impacted equipment. It is very unlikely that significant overexposures to airborne NORM are occurring during the routine maintenance of NORM impacted equipment.

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Instrument Care, Maintenance and Calibration

Portable survey meters typically used to conduct NORM surveys are, in themselves, generally quite rugged. However, the associated detectors and probes must be handled with care.

As a matter of good practice, connecting cables should not be sharply bent; frequent sharp bending of the connecting cables will break the internal cable wire. Battery contacts need to be kept clean and free of corrosion residue. In humid environments, or if instruments are used infrequently, batteries should be removed from survey meters when the survey instruments are not being used. Survey instruments should be kept clean, and detectors (probes) need to be kept free of NORM residue.

NORM survey instruments should be returned to the manufacturers (or other qualified instrument calibration agents) at least annually (semi-annually in some jurisdiction.) for general maintenance and calibration. Individual meters, detectors and connecting cables should be calibrated as discrete instruments (units): Switching components between units voids the calibration(s).

Instrument operational checks should be conducted before each use of an instrument (or after the detector has been dropped or banged against a solid object, etc.) to ensure that the instrument is functioning properly and providing representative readings. Operational checks include:

Battery Check

Switch the meter dial to the "battery" position and observe that the meter indicator moves into and remains in the accepted range, or depress the "battery" button on the meter and observe dial;

Source Check

Expose the detector (probe) to a source of radioactivity of known strength and confirm that the meter registers the proper reading. It is not adequate to merely confirm a positive response by the meter. A damaged detector may provide a positive response, but the response will be much lower than the proper reading.

Various types (and strengths) of radioactive check: sources may be purchased from most survey instrument suppliers. Operation checks of NORM survey instruments should be recorded in the survey documentation.

NOTE: There is some potential for sparking when detector cables are connected or disconnected, or when switches are turned on or off. Where explosive atmospheres may be encountered, tests for the presence of flammable gas/vapor should be made prior to the radiation survey.

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References

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IX
ELEMENTS OF AN OIL AND GAS NORM REGULATION

These elements are from Section 7, "Naturally Occurring Radioactive Material," of the 1994 IOGCC publication, *Environmental Guidelines for State Oil and Gas Regulatory Programs.* They highlight the significant issues that should be covered in a state regulation. The 1994 document currently is undergoing revision.

7.1 Background

Naturally occurring radioactive material (NORM) is present above background levels at some oil and gas E&P facilities and oil-field service company locations. NORM found in oil-field operations originates in subsurface oil and gas formations and is typically transported to the surface in produced waters. NORM may deposit in well tubulars, surface piping, vessels, tanks, pumps, valves, and other producing or processing equipment and may be found in scales, sludges, contaminated soils, and other associated E&P wastes.

7.2 General

States should adopt an oil field NORM regulatory program that addresses identification, use, possession, transport, storage, transfer, decontamination, and disposal to protect human health and the environment. States may choose not to adopt such a program if they find, based on field monitoring data and other scientific information, that significant levels of NORM do not occur in a state's oil and gas E&P industry. States that make such a finding should periodically reevaluate the basis for that determination.

If a state determines that a regulatory program is necessary, it should tailor its program to NORM occurrence in the oil and gas E&P industry and include the elements listed in Section 7.3. Oilfield NORM should be managed in accordance with the pollution prevention and waste management hierarchy provisions of the guidelines. In addition, the other sections of the guidelines apply, where applicable, to NORM as a constituent of E&P waste.

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7.3 Elements of an Oilfield NORM Program

7.3.1 Definition

States should develop a definition for NORM that is consistent with that which occurs in the oil and gas E&P industry. For purposes of the guidelines, NORM is defined as any nuclide or combination of nuclides that is radioactive in its natural physical state (i.e., it is not man-made), but does not include byproduct, source or special nuclear material.

7.3.2 Action Levels

States should establish numerical action levels above which NORM is regulated. Such action levels should also be used to regulate the transfer or release of equipment, materials, and sites.

7.3.3 Surveys

States should develop standards for survey instrumentation and procedures for identifying and documenting equipment, materials, and sites that may contain NORM above the action levels. State program requirements should specify the types of facilities to be surveyed, when surveys should be performed, when survey results should be reported to the state regulatory agency, and the required training of surveyors. State survey requirements should provide data necessary to meet the purposes described earlier in the publication, and to administer and enforce state program requirements effectively.

7.3.4 Worker Protection

State regulatory programs should include applicable state and federal standards for worker protection from exposure to radiation, including worker protection plans, and other standards necessary for the protection of workers from exposure to NORM. State regulatory programs should require the training of oilfield workers in NORM identification and radiation protection.

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7.3.5 Licensing/Permitting

a. **General licensing/permitting.** Persons who possess oilfield NORM in concentrations or at exposure rates that exceed state-adopted action levels should be generally licensed or permitted.

b. **Specific licensing/permitting.** Specific licenses or individual permits should be required for commercial storage, removal, decontamination, remediation, treatment or disposal of oilfield NORM. A state may require specific licenses or individual permits for the management of oilfield NORM at centralized facilities, which are defined earlier in the book.

7.3.6 Removal/Remediation

States should establish standards and procedures for removal, decontamination and remediation that are protective of workers, the public health and the environment.

7.3.7 Storage

States should establish standards for storage of NORM that are protective of human health and the environment. NORM storage facilities should be constructed to prevent or minimize releases. Tanks used to store oilfield NORM should meet the requirements as noted in the guidelines. A state should adopt limits on the amount of time NORM exceeds action levels, which can be stored where in-state disposal alternatives have been authorized.

7.3.8 Transfer for Continued Use

State regulatory programs should allow for the transfer of land and equipment, containing NORM for continued operation in the production of crude oil and natural gas, with appropriate notification to affected parties.

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7.3.9 Release of Sites, Materials and Equipment

State regulatory programs should address the levels below which, and conditions under which, equipment, materials, and sites containing NORM may be released. State regulatory programs should only authorize the release for unrestricted use of equipment, materials, and sites that exhibit NORM below action levels. Such regulations should provide for appropriate notification to affected persons.

7.3.10 Disposal

State regulatory programs should authorize disposal alternatives within the state's jurisdiction for various E&P wastes containing NORM, including contaminated equipment, and should include regulatory requirements for NORM disposal that are protective of human health and the environment. Landowner notification may be required as a condition of disposal. Commercial and centralized NORM disposal facilities should meet the criteria noted earlier in the book.

7.3.11 Interagency Coordination

State radiation programs, oil and gas programs, and waste management programs are frequently distributed among separate agencies. Therefore, in many states, multiple agencies may regulate NORM. The various agencies should coordinate their regulatory and enforcement activities under the guidance give in the guidelines.

7.3.12 Public Participation

State regulatory programs for NORM should meet public participation guidelines established in these guidelines.

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7.4 Regulatory Development and Research

The Conference of Radiation Control Program Directors (CRCPD) has approved a model state regulation for TENORM, and a number of states have developed or are in the process of developing TENORM regulations. States that are developing their own NORM programs are encouraged to consult these sources for information and assistance. In addition, states should encourage and keep abreast of ongoing and future research on NORM. The term TENORM is defined in the model CRCPD regulations.

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X

SUMMARY OF STATE REGULATIONS FOR NORM IN OIL AND GAS

ALABAMA

State agency: State Oil and Gas Board, 420 Hackberry Lane, P.O. Box 869999, Tuscaloosa, Alabama 35486-6999. Phone (205) 349-2852. http://www.ogb.state.al.us is the Web page. Staff e-mail addresses are: *@ogb.state.al.us (*Insert staff persons first initial and last name or insert "info" for general information).

Regulatory agency: State Board of Health, Department of Public Health, P.O. Box 303017, Montgomery, Alabama 36130-3017. Phone (334) 206-5391. Fax (334) 206-5387.

- Relevant Statute/Regulations: Alabama Rules for Control of Radiation, 420-3-26.
- Scope: These rules apply to all persons who receive, possess, use, transfer, own or acquire any source of radiation.
- Licensing: No person shall receive, possess, use, transfer, own, or acquire radioactive material except as authorized in a specific or general license or provided otherwise - 420-3-26-.02 (2).
- Cleaning Equipment: Cleaning equipment that is contaminated is a licensed activity subject to requirements of Rules 420-3-26-.02, 420-3-26-.03, and 420-3-26-.10.
- Disposal of Waste: Rules for disposal of radioactive waste are listed in Rule 420-3-26-.03.
- Subsequent Use of Equipment: Contaminated equipment is restricted in use to controlled activities.
- Subsequent Use of Materials: Depending upon levels of contamination; unrestricted use to transfer only to someone licensed to receive said materials.
- Release/Sale of NORM-Contaminated Land: 5 pCi/gm or less without restrictions; use otherwise restricted.
- Projected Volume of stored NORM in the State: No estimate available.
- Respondent: Kirksey Whatley

ALASKA

State agency: Alaska Oil and Gas Conservation Commission, 3001 Porcupine Drive, Anchorage, Alaska 99501. Phone (907) 279-1433. Fax (907) 276-7542.

Regulatory agency: Oil and Gas Conservation Commission, 3001 Porcupine Drive, Anchorage, Alaska 99501-3192. Phone (907) 279-1433. Fax (907) 276-7542.

- Relevant Statute/Regulations: Alaska does not have NORM regulations. NORM is not much of a problem here. What little we have has a low count. Industry has taken a proactive stand, cleaning tubulars, etc. NORM waste is either injected as a Class II fluid or incorporated in cement slurry.
- Respondent: David Johnston

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ARIZONA

State agency: Oil & Gas Program Administrator, Arizona Geological Survey, 416 W. Congress, Suite 100, Tucson, Arizona 85701. Phone (520) 770-3500.

Regulatory agency: Arizona Radiation Regulatory Agency, 4814 S. 40th St., Phoenix, Arizona 85048. Phone (602) 255-4845, ext. 222.

- Relevant Statute/Regulations: R12-1-416(F) - Individuals may apply to other exempt levels.
- Scope: All radioactive materials.
- Licensing: It is required for possession in excess of limits.
- Disposal of Waste: Unless exempt must have approved disposal.
- Subsequent use of Equipment: Depending on levels, controls may apply.
- Subsequent use of Materials: Depending on levels, controls may apply.
- Release/sale of NORM-Contaminated Land: Depending on levels.
- Respondent: Aubrey Godwin

ARKANSAS

State agency: Arkansas Oil and Gas Commission, P. O. Box 1472, El Dorado, Arkansas 71731-1472. Phone (870) 862-4965.

Regulatory agency: Department of Health, Division of Radiation Control and Emergency Management, 4815 W. Markham Street, Little Rock, Arkansas 72205-3867. Phone (501) 661-2108.

- Relevant Statute/Regulations: Section 7 "Naturally Occurring Radioactive Material (NORM)" *of the Arkansas State Board of Health Rules and Regulations for Control of* Sources of Ionizing Radiation.
- Scope: Radiation protection standards for possession, use, transfer, and disposal of NORM. These regulations address NORM into products in which neither the NORM or the emitted radiation is considered to be beneficial to the products. Regulations address waste management and disposal standards.
- Licensing: General licenses are issued to mine, extract, receive, possess, own, use, process and dispose NORM. (RH-6010). Specific license for manufacturing and distribution of any NORM product for activities involving the remediation of equipment and/or facilities contaminated with NORM and the disposal of NORM waste. (RH-6020).
- *Cleaning Equipment: Equipment contaminated with NORM in excess of levels listed in* Appendix A, Section 7 and having maximum radiation exposure levels greater than 50 microR per hour including background shall NOT be released for unrestricted use. (RH-6010.b.).
- Disposal of Waste: RH-6013 to a licensed disposal facility or in accordance with an alternate method approved by the Department.
- Subsequent Use of Equipment: Equipment contaminated with NORM is exempt if the maximum radiation exposure level does not exceed 50 microR including background

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or radioactive contamination levels do not exceed requirements of Appendix A of Section 7 (RH-6010.d.).

- Subsequent Use of Materials: RH-6023 requires that during the normal use and disposal that the radiation dose in any one year or the dose committed from intake of NORM will not exceed the doses of Column I of RH-6024.
- Release/Sale of NORM-Contaminated Land: Requires that an annotation of the deed-records to indicate the presence and quantity of NORM (RH-6010.f.1.B.).
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Jared Thompson

Regulatory agency: Arkansas Oil and Gas Commission, P.O. Box 1472, El Dorado, Arkansas 71731-1472. Phone (501) 862-4965. Fax (501) 862-8823.

- Relevant Statute/Regulations: The Oil and Gas Commission does not have regulations concerning NORM whether it be found in pipe and scale or soil and sediment.
- Scope: The Oil and Gas Commission may become involved with NORM disposal if an operator desires to dispose of the waste by well injection.
- Licensing: Not applicable - see ADH
- Cleaning Equipment: Not applicable - see ADH
- Disposal of Waste: May work jointly with ADH if applicant desires to use injection or down hole disposal.
- Subsequent Use of Equipment: Not applicable.
- Subsequent Use of Material: Not applicable.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Gary Looney

CALIFORNIA

State agency: California Department of Conservation, Division of Oil, Gas, and Geothermal Resources, 801 K Street, MS 20, Sacramento, California 95814-3530. Phone (916) 445-9686.

Regulatory agency: Department of Health Services, Radiological Health Branch, P.O. Box 942732, Sacramento, California 94234-7320. Phone (916) 322-3482. Fax (916) 324-3610.

- Relevant Statute/Regulations: California Health and Safety Code, Sections 114705-115270. California Code of Regulations, Title 17, Sections 30100-30543.
- Scope: Addresses all radioactive materials but is not specific to NORM and NORM issues in oil and gas production.
- Licensing: At the present time no decontamination, handling or disposal licenses specific to oil and gas industries and the associated NORM have been issued.
- Cleaning Equipment: Not presently licensed. No inventory or company's involved.

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- Disposal of Waste: No regulations specific to oil and gas NORM disposal. If NORM sets off alarms at disposal sites or recycle facilities (including steel mills) then waste is treated as radioactive waste.
- Subsequent Use of Equipment: No specific regulations or restrictions at the present time.
- Subsequent Use of Materials: No specific regulations or restrictions at the present time.
- Release/Sale of NORM-Contaminated Land: No specific regulations or restrictions at the present time.
- Projected Volume of stored NORM in the State: Unknown, but large due to geothermal.
- Respondent: Edgar Bailey

COLORADO

State agency: Oil and Gas Conservation Commission, 1120 Lincoln St., Suite 801, Denver, Colorado 80203. Phone (303) 894-2100. Fax (303) 894-2109.

Regulatory agency: Department of Public Health and Environment (CDPHE), 4300 Cherry Creek Dr., South, Denver, CO 80246-1530. Phone (303) 692-3066. Fax (303) 759-5355.

- Relevant Statute/Regulations: Parts 3 and 4 of The Radiation Control Regulations.
- Scope: The state has broad authority to control radioactive material. NORM is evaluated on a case by case basis. Colorado has had very few instances of NORM issues in the oil and gas industry. Most of our NORM is in the sedimentary rocks associated with uranium "roll fronts."
- Licensing: Case by case evaluation.
- Disposal of Waste: Case by case evaluation.
- Subsequent Use of Equipment: Risk assessment of residual radioactivity.
- Subsequent Use of Materials: Risk assessment of residual radioactivity.
- Release/Sale or NORM-Contaminated Land: There have been no restrictions on the sale or release of land.
- Respondent: Jake Jacobi

Regulatory agency: Colorado Oil and Gas Conservation Commission, 1120 Lincoln St., Suite 801, Denver, Colorado 80203. Phone (303) 894-2100, Ext. 112. Fax (303) 894-2109.

- Relevant Statute/Regulations: None existing or proposed.
- Scope: COGCC has authority over E&P wastes but CDPHE has authority over disposal of low-level radioactive material.
- Licensing: Not in scope.
- Cleaning Equipment: Not in scope.
- Disposal of Waste: Not in scope, unknown.
- Subsequent Use of Equipment: Unknown.
- Subsequent Use of Materials: Unknown.

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- Release/Sale of NORM-Contaminated Land: Unknown.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Robin Reade

FLORIDA

State agency: Department of Environmental Protection, Division of Technical Services, Florida Geological Survey, 903 W. Tennessee St., Tallahassee, Florida 32304-7700. Phone (904) 488-4191/487-2219.

Regulatory agency: Department of Health, Bureau of Radiation Control, 1317 Winewood Blvd., Tallahassee, Florida 32399-0700. Phone (850) 487-2437. Fax (850) 921-6364.

- Relevant Statute/Regulations: Chapter 64E-5, Florida Administrative Code (soon to be reissued as chapter 64E-5, F.A.C.).
- Projected Volume of stored NORM in the State: 30 drums at 55 gallons each.
- OTHER:

  Florida's oil and gas industry is divided into two regions. In the western Panhandle to the north of Pensacola lies the Jay trend, consisting of eight fields. In south Florida, the Sunniland trend includes 14 fields located to the west and southeast of Ft. Myers. Production in south Florida began in 1943; the Panhandle fields were not discovered until 1970. Production peaked at 47.5 million barrels in 1978 and has been in general decline since then, but both regions are expected to continue operations for many more years. The Jay fields dominate, contributing around 70 percent of total production. Offshore oil production in Florida waters is currently nonexistent due to a ban on exploration and development.

  The Department of Health first investigated technologically enhanced naturally occurring radioactive materials (TENORM) contamination in Florida's oil and gas industry in the late 1980s. Exxon Company USA was the state's largest operator at time, for both the Panhandle and south Florida regions. In response to NORM regulations adopted by Louisiana and Texas, Exxon developed corporate guidelines that all of their personnel and contractors follow. The guidelines are designed to ensure compliance with the most stringent NORM regulations, regardless of whether or not the jurisdictions in which they were operating have established NORM regulations. Thus, Exxon and their contractor personnel working in Florida complied with corporate worker protection procedures, and their NORM wastes were properly disposed.

  A staff health physicist inspecting Exxon's south Florida fields in 1989 found maximum radiation levels in the 20-30μR/hr range at the fields' tank batteries. A recently completed inspection of five of the oldest fields in the same region (now operated by Calmet Florida, Inc.) served to confirm the 1989results. The highest gamma readings found was 80μR/hr in a saltwater storage tank; all other readings ranged from background (10-14μR/hr) to 40μR/hr, with most in the 20μR/hr range. The geochemistry of produced waters in the region does not appear to be conducive to radium replacement, resulting in low activity scale formation. Thirty-eight pipe scale samples were analyzed for radium content, with concentrations ranging from <0.75pCi/g.-11.5pCi/g. with an average of 2.1pCi/g.

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The panhandle region was also investigated in the late 1980s, but documentation of the findings is lacking. Records indicate that in 1993, Exxon was approved to dispose of 186 barrels of NORM waste (drilling mud) downhole in a wellbore during plugging and abandonment of one of their exhausted wells. In all other cases, Exxon's NORM wastes were shipped out of state for disposal at licensed waste disposal facilities.

In 1996, staff inspectors visited the two treatment facilities operating in the region, one operated by Exxon, and the other by De Soto Oil and Gas, Inc.(now Petro Operating Co.). The highest external gamma reading (100-200μR/hr) were noted in separator tanks, but due to extremely low worker occupancy times in the elevated radiation fields, the readings were not considered an occupational hazard.

De Soto was found to be generating small quantities of NORM waste (approximately 50 drums) and storing them on site pending availability of a wellbore ready for plugging and abandonment, which they planned to use for downhole disposal of their wastes. Exxon no longer operates in the Panhandle region, having recently sold their interests to Louisiana Land Exploration (LL&E).

Due to the low occupancies for the areas where elevated gamma readings were noted, our current position is that oil and gas TENORM in Florida does not warrant increased regulatory oversight at this time. However, additional analysis of data and additional field measurements may lead us to reassess our view, particularly if an effort to promulgate comprehensive TENORM regulations is made.

- Respondent: Walter Cofer.

GEORGIA

State agency: Environmental Protection Division, Department of Natural Resources, Geologic Survey Section, Room 400, 19 Martin Luther King Dr., S. W., Atlanta, Georgia 30334. Phone (404) 656-3214. (Rules and Regulations are available from the above).

- No NORM regulations at this time.

IDAHO

State agency: Oil and Gas Conservation Commission, Idaho Department of Lands, 3780 Industrial Ave., South, Coeur d'Alene, Idaho 83815-8918. Phone (208) 769-1535.

- No NORM regulations at this time.

ILLINOIS

State agency: Department of Natural Resources, Office of Mines and Minerals, Division of Oil and Gas, 524 S. Second Street, Springfield, Illinois 62701-1787. Phone (217) 782-7756.

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Regulatory agency: Department of Natural Resources, Division of Oil and Gas, 524 South Second St., Springfield, Illinois 62701-1787. E-mail: lbengal@dnrmail.state.il.us. Phone (217) 782-1689. Fax (217) 524-4819.

- Relevant Statute/Regulations: Illinois Oil and Gas Act – 225 ILCS 725/1.
- Scope: Department has authority to regulate **all** oil and gas wastes. Does not name NORM specifically, but Department interprets all to include oilfield NORM.
- Licensing: None required at this time. State Department of Nuclear Safety may purpose NORM regulations, however, current state low-level waste statutes implemented by Nuclear Safety are not clear on NORM authority.
- Cleaning Equipment: None regulated at this time except from the standpoint of worker safety, which is under the jurisdiction of the Department of Nuclear Safety.
- Disposal of Waste: Currently, only disposal of NORM in pit residues is regulated.
- Subsequent Use of Equipment: Equipment not regulated at this time.
- Subsequent Use of Materials: Use of potentially NORM contaminated materials are not regulated at this time.
- Released/Sale of NORM-Contaminated Land: Current regulations only require a notice be filled with the County Clerk stating the presence of NORM at a closed pit site.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Lawrence Bengal

Regulatory agency: Illinois Department of Nuclear Safety, Division of Materials, 1035 Outer Park Drive, Springfield, Illinois 62704. Phone (217) 785-9935. Fax (217) 782-1328.

- Relevant Statute/Regulations: 32 Illinois Administrative Codes, but currently developing a specific TENORM rule.
- Scope: Covers all radioactive material and facilities that are not areas of exclusive federal jurisdiction.
- Licensing: Required for all that are not exempt.
- Cleaning Equipment: License required.
- Disposal of Waste: To specifically approved facilities and by specifically approved methods only.
- Subsequent Use of Equipment: Okay.
- Subsequent Use of Materials: Case-by-case evaluation needed.
- Release/Sale of NORM-Contaminated Land: Case-by-case evaluation. Decommissioning generally required.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Steven Collins.

INDIANA

State agency: Division of Oil and Gas, 402 West Washington Street, Room 293, Indianapolis, Indiana 46204. Phone (317) 232-4055.

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Regulatory agency: State Department of Health, Emergency Response and Radioactive Material Programs, Indoor and Radiologic Health, 2 North Meridian St., 5th Floor, Indianapolis, Indiana 46204-3003. Phone (317) 233-7153. Fax (317) 233-7154.

- Relevant Statute/Regulations: Proposed - No state regulations for dealing with NORM in the oil and gas industry.
- Scope: When found in scrap streams our office provides list of radiation brokers (CRCPD).
- Respondent: Rex Bowser

KANSAS

State agency: State Corporation Commission, Conservation Division, Finney State Office Building, 130 S. Market, Room 2078, Wichita, Kansas 67202. Phone (316) 337-6200.

Regulatory agency: Radiation Control Program, Bureau of Air and Radiation; Kansas Department of Health and Environment.

- Relevant Statute/Regulations: There are no existing or proposed regulations specific to NORM.
- Scope: The State of Kansas Radiation Protection Regulations apply to all persons who receive, posses, use, transfer, own or acquire any source of radiation.
- Licensing: NORM responses are evaluated to decide if radioactive materials license is required for the material.
- Cleaning Equipment: Descaling or cleaning operations would require a Radioactive Materials License if scale or sludge contains significant quantities of radioactive materials such as Radium-226.
- Disposal of Waste: There is currently no satisfactory cost-effective way of disposing of this material.
- Subsequent Use of Equipment: Release criterion of contaminated equipment would fall under the scope of Kansas Radiation Protection Regulations. Specific requirements would be addressed depending upon the scope of the licensee's proposed activities.
- Subsequent Use of materials: Release criterion of contaminated materials would fall under the scope of Kansas Radiation Protection Regulations. Specific requirements would be addressed depending upon the scope of the licensee's proposed activities.
- Release/Sale of NORM-Contaminated Land: A radioactive materials license would be required and appropriately transferred to the new owners.
- Projected Volume of stored NORM in the State: The extent of NORM contamination in oil and gas operations in Kansas has not been assessed. It has been proposed that the Department contact with a consultant to assess the extent of NORM contamination in Kansas.
- Respondent: David Whifill

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KENTUCKY

State agency: Division of Oil and Gas Conservation, P. O. Box 2244, Frankfort, Kentucky 40601. Phone (502) 573-0147.

Regulatory agency: Cabinet for Health Services, 275 East Main, Frankfort, Kentucky 40601. Phone (502) 564-7130. Fax (502) 564-7573.

- Relevant Statute/Regulations: CRCPD states that "TENORM does not include the natural radioactivity of rocks, soil, or background but instead refers to materials whose radioactivity is technologically enhanced by controlled practices." Part N of CRCPD states TENORM is "radioactive material." 902 KAR 100:010(176) states "radioactive material" means a solid, liquid, or gas which emits radiation spontaneously. TENORM falls into this area as defined by the CRCPD.
- Scope: Given the above 902 KAR 100 could be considered applicable to TENORM. All the areas listed below would fall under existing regulations. If TENORM is not considered radioactive material, then Kentucky would have regulations applicable to this material
- Respondent: John Volpe.

LOUISIANA

State agency: Office of Conservation, P. O. Box 94275, Capitol Station, Baton Rouge, Louisiana 70804-9275. Phone (225) 342-5540.

Regulatory agency: Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, Radiation Protection Division, Licensing Section, P.O. Box 82135, Baton Rouge, Louisiana 70884-2135. Phone (504) 765-0141. Fax (504) 765-0220.

- Relevant Statute/Regulations: Louisiana Administrative Code, Title 33, Part 15, Chapter 14 Regulation and Licensing of Naturally Occurring Radioactive Material (NORM), amended January 1995.
- Scope: The regulations say: "These regulations apply to any person who engages in waste generation, extraction, mining, beneficiating, processing, possession, use, transfer, treatment, transportation, or disposal of NORM or recycling of NORM contaminated equipment in such a manner as to technologically alter the natural sources of radiation or their potential exposure pathways to humans, which could include many industries." Yet, in practice, the state of Louisiana has put NORM regulatory emphasis on the oil and gas industry. Largely, because the occurrence of NORM has predominately been found in the oil and gas industry. There are few other industries such as paper and pulp and petrochemical where the regulation of NORM has been enforced.
- Licensing: Louisiana created a general license requirement of all oil and gas operators/companies who own or operate sites where NORM contamination has been discovered. Upon discovery of the presence of NORM, an operator/company is required to notify the state of Louisiana of the site using the NORM notification form. The information is compiled into a database and each operator/company is assigned a

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general license number and each site is tracked by a site-specific number. At present, the state of Louisiana has approximately 450 NORM general licenses.

For companies engaged in providing NORM decontamination, handling, disposal, and other related NORM services, the state of Louisiana requires such companies to possess a NORM specific license issued from the Division or another agreement state. At present, there are 33 companies specifically licensed through the state of Louisiana.

- Cleaning Equipment: NORM general licensees are allowed to *...perform maintenance on vessels, tanks, tubular goods, or water treatment systems, or the clearing of pipe lines to maintain oil and gas production...* under the on-site maintenance provision stated in LAC33:XV.1408.A.4., provided that written worker protection procedures are submitted to the division, and that the maximum radiation level does not exceed two millirem per hour.

  The decontamination of NORM contaminated equipment for release for unrestricted use is reserved for companies that possess a NORM specific license from the state of Louisiana or an agreement state. The handling and decontamination of NORM contaminated equipment and sites is largely performed by companies that possess a NORM specific license.
- Disposal of Waste: At present, the following are disposal option available to oil and gas operators:
  (a) Commercial treatment by method of landfarming. There are one or two commercial landfarms in Louisiana permitted for NOW disposal that accept NORM with concentration less than 30 picocuries per gram of Ra-226 or Ra-228.
  (b) Non-commercial Downhole Disposal into wellbore to be plugged and abandoned.
  (c) Non-commercial deep well injection. In July 1997, the state of Louisiana issued an oil and gas operator a license to handle and process NOW/NORM waste belonging to the operator for injection into a Class II injection well.
  (d) Commercial deep well injection. There are two commercial facilities in the state of *Texas permitted and licensed to inject NOW/NORM into an injection well.*
- Subsequent Use of Equipment: NORM contaminated tubular goods and pipe are often decontaminated and then, reused. That which is unusable is decontaminated and sold as scrap.
- Release/Sale of NORM-Contaminated Land: To release the site, documentation is required supporting the removal of the NORM. Included in the documentation, would be a radiation survey of the area where the NORM was present, soil sample data, and records supporting the transfer of the equipment or NORM waste for treatment, storage, or disposal. The release criteria for a site is outlined in Louisiana's NORM Implementation Manual.
- Projected Volume of stored NORM in the State: It is uncertain how much NORM is being stored in the state. In 1994 and 1995, two disposal options came available that provided an outlet for many operators to begin moving their inventory of NORM waste for disposal. One of the options existed in Louisiana through a company that operated a commercial landfarm specifically permitted/licensed to accept NOW/NORM waste. The other option existed in Texas through a company that operated a commercial injection well permitted/licensed to accept NOW/NORM waste.
- *Respondent: Jason Talbot*

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MARYLAND

State agency: Maryland Department of the Environment, Water Management Administration, Minerals, Oil and Gas Division, 2500 Broening Highway, Baltimore, Maryland 21224.

Regulatory agency: Department of Environment, Minerals, Oil and Gas Division, 2500 Broening Highway, Baltimore, Maryland 21224. Phone (410) 631-8055.

- Relevant Statute/Regulations: No regulations or laws exist or are proposed regarding NORM in oil and gas production.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Respondent: C. Edmon Larrimore

MICHIGAN

State agency: Geological Survey Division, Department of Environmental Quality, P.O. Box 30256, Lansing, Michigan 48909. Phone (517) 334-6907. (Supervisor of Wells - same address).

Regulatory agency: Department of Environmental Quality, Geological Survey Division, Box 30256, Lansing, Michigan 48909. Phone (517) 334-6937. Fax (517) 334-6919.

- Relevant Statute/Regulations: Special Order of the Supervisor of Wells/Supervisor of Mineral Wells, Issued 11/3/1992.
- Scope: Order deals with approved method: for plugging wells in which NORM contamination exists on downhole equipment or is generated during plugging operations.
- Licensing: None required.
- Cleaning Equipment: None specified.
- Disposal of Waste: NORM-contaminated equipment may be reinserted into the wellbore from which it was taken. Soils, clothing, etc. contaminated with NORM during plugging may be disposed of by insertion into the well being plugged.
- Subsequent Use of Equipment: If NORM-contaminated equipment is not reinserted, it may be stored, reused, or recycled following applicable state and federal government regulations.
- Subsequent Use of Materials: As for equipment above.
- Release/Sale of NORM-Contaminated Land: No specific geological survey oversight of this area.
- Projected Volume of stored NORM in the State: Not applicable.
- Respondent: Ray Vugrinovich

Regulatory agency: Department of Environmental Quality, Radiological Protection Section, P.O. Box 30630, Lansing, Michigan 48909-8130. Phone (517) 335-8204. Fax (517) 335-8706.

- Relevant Statute/Regulations: Currently, the Michigan Department of Environmental Quality, pursuant to state statute (Public Code, 1978 Public Act 368, as amended), has regulatory authority over the radiological aspects of NORM. However, the

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associated administrative rules (Michigan's *Ionizing Radiation Rules*) have not yet been revised to specifically address NORM concerns related to oil and gas production. A staff proposal to adopt the current version of suggested regulations from the Conference of Radiation Control Program Directors (CRCPD) (Part N of the suggested state Regulations for Control of Radiation, February 1997) is being considered.

In the interim, *Cleanup and Disposal Guidelines for Sites Contaminated with Radium-226* can be considered as applicable in Michigan to address some of the more significant concerns related to NORM.

- Disposal of Waste:
  (a) For disposal of radium-226 contaminated materials in the form of bulk waste, such as contaminated soil or contaminated debris, materials containing a radium-226 concentration not exceeding 50 picocuries per gram, averaged over any single shipment, can be accepted in a Type II solid waste landfill, as defined in Act 641, Public Acts of 1978, as amended, and permitted by the Department. The maximum radium-226 concentration within any single shipment as determined by representative sampling must not exceed 100 picocuries per gram.
  (b) For disposal of radium-226 contaminated waste materials at concentrations above 50 picocuries per gram, the wastes should be transferred to a licensed radioactive waste disposal facility.
  (c) In addition, any naturally occurring radioactive material wastes containing radium-226 at any concentration resulting from oil and gas extraction activities in Michigan may be disposed downhole during plugging and abandonment operations, subject to any additional applicable requirements of the Department.
- Release/Sale of NORM-Contaminated Land:
  (a) For release of facilities, equipment, or land for unrestricted use, the attached guidelines will be used by the department to determine acceptable levels of residual contamination during remediation of Michigan sites contaminated with radium-226.
  (b) For facilities, equipment, or land for which release under certain restrictions may be appropriate, the department will review specific site proposals for other release limits based on the methodology for dose assessment contained in NUREG/CR-5512, Vol. 1 (U.S. Nuclear Regulatory Commission, October 1992). In no case will a restricted use release be approved if the maximum individual total effect dose equivalent can exceed 100 millirem per year under conditions of a reasonable worst-case scenario. Each specific site remediation proposal involving restricted use must include an *As Low As Reasonably* Achievable analysis.
- Respondent: David Minnaar

MISSISSIPPI

State agency: State Oil and Gas Board, 500 Greymont Avenue, Suite E, Jackson, Mississippi 39202-3446. Phone (601) 354-7114.

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Regulatory agency: Department of Health, Division of Radioactive Health, Radioactive Materials Branch, P.O. Box 1700, Jackson, Mississippi 39215. Phone (601) 354-6167. Fax (601) 354-6687.

- Relevant Statute/Regulations: Mississippi State Board of Health Regulations for Control of Radiation, Section N.
- Scope: Mississippi Legislature gave NORM regulatory action to the State Oil and Gas Board in 1996.
- Respondent: B. J. Smith

Regulatory agency: Mississippi State Oil and Gas Board, 500 Greymont Ave., Suite E, Jackson, Mississippi 39202. Phone (601) 354-6474. Fax (601) 354-6873.

- Relevant Statute/Regulations: Rule 68. Disposal of NORM and Rule 69. Control of NORM
- Scope: Applies to NORM derived from exploration and production activities at facilities which on or after 7/1/95 were permitted by the State Oil and Gas Board, and which on some date were active or inactive.
- Licensing: None. Site survey required on all sites with results reported on Form 21.
- Cleaning Equipment: Required for "release for unrestricted use" but not regulated.
- Disposal of Waste: Permitted under Rule 68 for disposal in wells being plugged and abandoned, or offsite at a licensed low level radioactive waste or NORM disposal facility.
- Subsequent Use of Equipment: No restrictions if transferred to another producer. Radiation limits if released for unrestricted use.
- Subsequent Use of Materials: No restrictions if used by another oil and gas producer.
- Release/Sale of NORM-Contaminated Land: No restrictions if transferred to another producer. Radiation limits for release for unrestricted use.
- Respondent: W. Kent Ford

MISSOURI

State agency: State Oil and Gas Council, P. O. Box 250, Rolla, Missouri 65402. Phone (573) 368-2168.

Regulatory agency: Missouri Department of Natural Resources, Wellhead Protection Section, P.O. Box 250, Rolla, Missouri 65402. Phone (573) 368-2170. Fax (573) 368-2111.

- Relevant Statute/Regulations: There are currently no regulations in place or proposed that deal with NORM.
- Respondent: Evan Kifer

MONTANA

State agency: Board of Oil and Gas Conservation, P.O. Box 217, Helena, Montana 59624. Phone (406) 449-2622. Technical Office: 2535 St. Johns Avenue, Billings, Montana 59102. Phone (406) 656-0040. Northern Field Office: 218 Main Street, P.O. Box 690, Shelby, Montana 59474. Phone (406) 434-2422.

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Regulatory agency: Montana Department of Public Health and Human Services.

- Relevant Statute/Regulations: None; will be developing regulations within the next year, based on the CRCPD's state suggested regulations.
- Respondent: George Eicholt

NEBRASKA

State agency: Nebraska Oil and Gas Conservation Commission, P. O. Box 399, Sidney, Nebraska 69162. Phone (308) 254-6919.

Regulatory agency: HHS Regulation and Licensure, Public Health Assessment, Radioactive Material Program, P. O. Box 95007, Lincoln, Nebraska 68509. Phone (402) 471-2168.

- Relevant Statute/Regulations: At the present time, Nebraska has not adopted specific NORM regulations. Occurrences of NORM problems are currently handled under the state's general regulations for the control of radiation.
- Respondent: Brian Hearth

NEVADA

- No NORM regulations at this time.

NEW MEXICO

State agency: New Mexico Energy, Minerals and Natural Resources Department, Oil Conservation Division, 2040 South Pacheco Street, Santa Fe, New Mexico 87505. Phone (505) 827-7131. Fax (505) 827-8177.

Regulatory agency:

(a) Radiation Licensing and Registration Section, New Mexico Environmental Department (NMED).
(b) Oil Conservation Division, New Mexico Energy, Minerals and Natural Resources Department (OCD).

- Relevant Statute/Regulation:
  (a) NMED: Naturally Occurring Radioactive Materials in the Oil and Gas Industry (Subpart 14)
    - Scope: Apply to persons who engage in extraction, transfer, storage or disposal of NORM. Apply to sludges and scale and storage and cleaning of tubulars and equipment.
  (b) OCD: Disposal of Regulated Naturally Occurring Radioactive Material (Rule 714)
    - Scope: Establish procedures for the disposal of regulated NORM.
- Licensing: General and specific
- Cleaning Equipment: Allowed under worker protection plans and limits of exposures in the regulations.
- Disposal of Waste: Exempt if under 30 picocuries per gram of Ra226 above background or 150 picocuries per gram of any other NORM radionuclide above

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background. Disposal per regulation in non-retrievable flowlines and pipelines, in *commercial-centralized facilities, in plugged and abandoned wells and in Class I and II* injection wells.

- Subsequent Use of Equipment: Facilities and equipment containing regulated NORM shall not be released for unrestricted use.
- Storage of Materials: NORM can be stored up to one year under general licenses, *longer under specific licenses or an extension granted by NMED.*
- Projected Volume of Stored NORM in the State: Unknown
- Respondent: Jerrie Moore, NMED; Roger Anderson, OCD

NEW YORK

State agency: Department of Environmental Conservation, Division of Mineral Resources, 50 Wolf Road, Room 290, Albany, New York 12233-6500. Phone (518) 457-7480. Region 9 Office, 128 South Street, Olean, New York 14760. Phone (716) 372-0645. Region 8 Office, 6274 East Avon-Lima Road, Avon, New York 14414. Phone (716) 226-2466.

Regulatory Agency: Department of Environmental Conservation (DEC), Bureau of Pesticicles and Radiation, 50 Wolf Road, Room 402, Albany, New York 12233-7255. Phone: (518) 457-2225. Fax: (518) 485-8390.

- Relevant Statute/Regulations: 6 NYCRR Part 380 - Rules and Regulations for *Prevention and Control of Environmental Pollution by Radioactive Materials.*
- Scope: Discharge and disposal of radioactive materials; applies to NORM if
  (a) processed and concentrated and
  (b) subject to radioactive materials licensing.
- Licensing: Department of Environmental Conservation is not a radioactive materials licensing agency. The licensing agencies in New York state (State Health Department, State Labor Department, New York City Health Department) have not required licenses for NORM from oil and gas production.
- Release/Sale of NORM-Contaminated Land: DEC has cleanup guidelines for soils contaminated with radioactive materials (DSHM, TAGM 4003); DEC does not regulate sale of NORM-contaminated land.
- Projected Volume of stored NORM in the State: DEC has not made this estimate.
- Respondent: Paul Merges

NORTH CAROLINA

State agency: Department of Environment and Natural Resources, Division of Land Resources, P.O. Box 27687, Raleigh, North Carolina 27611. Phone (919) 733-3833.

Regulatory agency: Division of Radiation Protection, 3825 Barrett Dr., Raleigh, North Carolina 27609-7221. Phone (919) 571-4141. Fax (919) 571-4148.

- Relevant Statute/Regulations: G.S. 104E and 15A NCAC Chapter 11.
- Scope: All aspects of radiation protection.
- Licensing: Uses and sources of radioactive material and particle accelerators.
- Cleaning Equipment: U.S. Department of Transportation contamination limits.

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- Disposal of Waste: LLRW.
- Subsequent Use of Equipment: Per case basis.
- Subsequent Use of Materials: Per case basis.
- Release/Sale of NORM-Contaminated Land: Per case basis.
- Projected Volume of stored NORM in the State: Unknown; large PO4 plant.
- Respondent: Richard Fry.

NORTH DAKOTA

State agency: North Dakota Industrial Commission, Oil and Gas Division, 600 East Boulevard Ave., Dept. 405, Bismarck, North Dakota 58505-0840. Phone (701) 328-8020.

Regulatory agency: North Dakota Department of Health, P.O. Box 5520, Bismarck, North Dakota 58506-5520. Phone (701) 328-5188. Fax (701) 328-5200.

- Relevant Statute/Regulations: Regulations: North Dakota Radiological Health Rules, North Dakota Administrative Code article 33-10. Statute: North Dakota Century Code chapters 23-20, 23-20.1, and 23-20.2
- Scope: The regulations cover all ionizing radiation sources, including NORM. However, there isn't a specific chapter on NORM in regulations. North Dakota has not adopted regulations equivalent to the CRCPD's Part N yet.
- Licensing: Licensing of NORM is handled the same way as licensing of other radioactive materials, using North Dakota Radiological Health Rules chapter 33-10-03, which is based upon the CRCPD's Part C, "Licensing of Radioactive Materials." Also, anyone who owns NORM is considered to be a general licensee and would need to comply with applicable portions of the North Dakota Radiological Health Rules.
- Cleaning Equipment: No specific standards for cleaning equipment. Would need to obtain a license to provide NORM decontamination services.
- Disposal of Waste: Must receive approval of North Dakota Department of Health before disposing of NORM. In the past, we have approved disposal in a plug and abandon well; approval is on a case-by-case basis.
- Subsequent Use of Equipment or Materials: Equipment and materials must be permanently decontaminated below or equal to the standards in Appendix F of Chapter 33-10-04.1. A survey must be made after decontamination and the North Dakota Department of Health and subsequent transferee or owner must be provided with a copy of the survey. Equipment or materials can't be sold, leased, or transferred until the decontamination survey has been verified and accepted by the North Dakota Department of Health.
- Release/Sale of NORM-Contaminated Land: Must be 5 picocuries of radium or less per gram of dry soil. Results of surveys must be provided to North Dakota Department of Health and property owner or subsequent tenant or transferee. Property can't be vacated, sold, or transferred until a decontamination survey has been verified and accepted by North Dakota Department of Health.
- Projected Volume of stored NORM in the State: Unknown.
- Respondent: Ken Wangler

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OHIO

State agency: Department of Natural Resources, Division of Oil and Gas, Building B, Fountain Square, Columbus, Ohio 43224. (Chapter 1509, Ohio Revised Code). Phone (614) 265-6922.

Regulatory agency: Department of Natural Resources, Division of Oil and Gas, 4383 Fountain Sq. Ct., Bldg. B, 3rd Floor, Columbus, Ohio 43224. Phone (614) 265-6893. Fax (614) 268-4316.

- Relevant Statute/Regulations: Ohio has no rules specific to oil and gas NORM.
- Respondent: Tom Tugend

OKLAHOMA

State agency: Oklahoma Corporation Commission, Oil and Gas Conservation Division, P.O. Box 52000-2000, Oklahoma City, Oklahoma 73152-2000. Phone (405) 521-2301. Fax (405) 521-3099. E-mail: m.battles@occmail.occ.state.ok.us. OCC Web site is www.occ.state.ok.us.

Regulatory agency: Department of Environmental Quality, Radiation Management Section, 1000 N.E. 10th St., Oklahoma City, Oklahoma 73117. Phone (405) 271-7484.

- Relevant Statute/Regulation: Oklahoma Department of Quality has no rules to specifically address NORM, Existing radiation rules are interpreted on a case-by-case basis as necessary.
- Scope: NORM rules have been proposed by industry, but exact scope and content are influx.
- Disposal of waste: Solid waste rules prohibit disposal of solid waste landfills (RCRA landfills).
- Respondent: Mike Broderick

OREGON

State agency: Department of Geology and Mineral Industries, Suite 965, 800 N.E. Oregon St., #28, Portland, Oregon 97232. Phone (503) 731-4100. Fax (503) 731-4066.

Regulatory agency: Oregon Health Division, Radiation Protection Services, 800 N.E. Oregon St., Portland, Oregon 97232. Phone (503) 731-4014.

- Relevant Statute/Regulations: OAR 333-117-010 to -370.
- Scope: Anyone who engages in extraction, mining, beneficiating, processing, use, transfer or disposal.
- Licensing: Yes.
- Cleaning Equipment: Yes.
- Disposal of Waste: Yes.
- Subsequent Use of Equipment: Yes.
- Subsequent Use of Materials: Yes.

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- Release/Sale of NORM-Contaminated Land: Must meet decommissioning and decontamination criteria.
- Respondent: Ray Paris and Dan Wermiel

PENNSYLVANIA

State agency: Department of Environmental Protection, Bureau of Oil and Gas Management, central office: P. O. Box 8765, Harrisburg, Pennsylvania 17105-8765. Phone (717) 772-2199. Regional office: 400 Waterfront Drive, Pittsburgh, Pennsylvania 15222-4745. Phone (412) 442-4015. Regional office: 230 Chestnut Street, Meadville, Pennsylvania 16335. Phone (814) 332-6860.

Regulatory agency: Department of Environmental Protection, Bureau of Oil and Gas Management, P.O. Box 8765, Harrisburg, Pennsylvania 17105. Phone (717) 772-2199.

- Relevant Statute/Regulations: None existing or proposed. Surveys have shown NORM is not an issue with oil and gas production in Pennsylvania.
- Respondent: James E. Erb

Regulatory agency: Department of Environmental Protection, Bureau of Radiation Protection, P.O. Box 8469, Harrisburg, Pennsylvania 17105. Phone (717) 787-3720.

- Relevant Statute/Regulations: Pennsylvania has no NORM regulations.
- Scope: NORM problems are addressed using existing regulations and EPA/NRC standards on a case-by-case basis.
- Respondent: Stuart Levin

SOUTH CAROLINA

Regulatory agency: Division of Radioactive Material Licensing and Compliance, Bureau of Radiological Health, 2600 Bull Street, Columbia, South Carolina 29201-1708. Phone (803) 737-7406.

- Relevant Statute/Regulations: Part IX, "Licensing of Naturally Occurring Radioactive Material (NORM)," of South Carolina Department of Health and Environmental Control, Regulation 61-63, Radioactive Materials (Title A).
- Scope: This part establishes radiation protection standards for the possession, use, transfer, transport, and/or storage of naturally occurring radioactive material (NORM) or the recycling of NORM contaminated materials not subject to regulation under the Atomic Energy Act of 1954, as amended. The requirements of this part are in addition to and not in substitution for other applicable requirements of Parts I, II, III, VI, and VII of these regulations. Except as otherwise specifically provided, these regulations apply to all persons who engage in the extraction, mining, beneficiating, processing, use, transfer, transport, and/or storage of NORM. Also the recycling of NORM contaminated materials in a manner that alters the chemical properties or physical state of natural sources of radiation or the potential exposure pathways to humans or environment.
- Licensing: General and specific.
- Respondent: David King

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SOUTH DAKOTA

State agency: Department of Environment and Natural Resources, Oil and Gas Program, 2050 W. Main, Suite #1, Rapid City, South Dakota 57702. Phone (605) 394-2229. Fax (605) 394-5317.

Regulatory agency: Department of Environment and Natural Resources, 2050 W. Main, Suite 1, Rapid City, South Dakota 57702. Phone (605) 394-2229.

- Relevant Statute/Regulations: South Dakota does not have any oilfield rules addressing NORM at present. There are no NORM rules being proposed at present.
- Scope: Not applicable.
- Licensing: Not applicable.
- Cleaning Equipment: Not applicable.
- Disposal of Waste: Not applicable.
- Subsequent Use of Equipment: Not applicable.
- Subsequent Use of Materials: Not applicable.
- Release/Sale of NORM-Contaminated Land: Not applicable.
- Projected Volume of stored NORM in the State: Not applicable.
- Respondent: Fred V. Steece

TENNESSEE

State agency: State Oil and Gas Board, 13th Floor, L & C Tower, 401 Church St., Nashville, Tennessee 37243-0445. Phone (615) 532-0166. Fax (615) 532-1517. E-mail mburton@mail.state.tn.us.

Regulatory agency: Department of Environment and Conservation; Division of Radiological Health, 401 Church St., 3rd Fl., L & C Annex, Nashville, Tennessee 37243.

- Relevant Statute/Regulations: State Regulations for Protection Against Radiation, 1200-2-4, 1200-2-5, 1200-2-10.
- Scope: The state of Tennessee does not distinguish between NORM and any other radioactive material (NARM, byproduct, tanuranic, special nuclear material). All radioactive material is subject to the regulations of the state of Tennessee.
- Licensing: All radioactive material including NORM is subject to the licensing of the state of Tennessee unless excluded on a case-by-case basis. This includes possession, storage, use, transfer, receive, own or the acquisition of any radioactive material unless otherwise exempted (NRC, Agreement State Exemptions).
- Cleaning Equipment: This would require a specific license issued by the state of Tennessee for the authorization of a particular process.
- Disposal of Waste: Waste must be disposed of as radioactive unless otherwise specifically authorized by the state of Tennessee (case-by-case).
- Subsequent Use of Equipment: Equipment can be "free-released" if it meets the requirements of 1.86, NRC Regulatory Guide.
- Subsequent Use of Materials: Materials must be specifically licensed for use as any other radioactive material unless specifically authorized by the state of Tennessee (case-by-case).

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- Release/Sale of NORM-Contaminated Land: Not encountered. Property would have to be decontaminated to levels at or very near 'true background.' Land could possibly be sold with institutional controls and restrictions if it was not completely "clean." (case-by-case)
- Projected Volume of stored NORM in the State: Unknown, not characterized in this fashion.
- Respondent: Michael Page.

TEXAS

State agency: Railroad Commission of Texas, Oil and Gas Division, 1701 N. Congress, Austin, Texas 78701. Mailing address: P.O. Box 12967, Austin, Texas 78711-2967. Phone (512) 463-6887.

- At the end of 1994, the Commission adopted a rule (Rule 94) for disposal of oil and gas naturally occurring radioactive material (NORM). In Texas, the RRC regulates disposal of oil and gas NORM waste and the Texas Department of Health (TDH), Bureau of Radiation Control, regulates all other aspects of oil and gas NORM management. In 1994, the RRC adopted regulations for disposal of oil and gas NORM waste (Rule 94). These regulations were developed in consultation with the TDH. NORM that occurs in oil and gas products is exempt from regulation under TDH rules. NORM that occurs in produced water is exempt from TDH rules applicable to transportation and storage and is not subject to special NORM disposal regulations. The rule is based on risk of exposure to NORM. The rule authorizes certain disposal methods for NORM oil and gas waste under certain conditions, and requires specific authorization for other disposal methods. Staff from the RRC, TDH and the Texas Natural Resource Conservation Commission (TNRCC) meet quarterly to discuss radiation issues and to coordinate efforts. In addition, the Texas Radiation Advisory Board (TRAB), which consists of 18 members appointed by the governor, is charged with providing recommendations and technical advise to the RRC, the TDH, and Texas Natural Resources Conservation Commission.

UTAH

State agency: Department of Natural Resources, Division of Oil, Gas and Mining, 1594 W. North Temple, Suite 1210, P.O. Box 145801, Salt Lake City, Utah 84114-5801. Phone (801) 538-5340. Fax (801) 359-3940.

Regulatory agency: Department of Environmental Quality, Division of Radiation Control, P.O. Box 144850, Salt Lake City, Utah 84114-4850. Phone (801) 536-4250. Fax (801) 533-4097.

- Relevant Statute/Regulations: R313-19-13(2)(a)(i)(B) provides that naturally occurring radioactive material (NORM) containing less than 15 picocuries per gram radium-226 is exempt from regulation. Amounts greater than this are subject to licensing.
- Scope: Current rules are somewhat limited in scope. The Conference of Radiation Control Program Directors (CRCPD) has released draft rules for the licensing and

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regulation of Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM). The Division of Radiation Control supports this effort.

- Licensing: Requirements for licensing are found in the Utah Rules at R313-22.
- Cleaning Equipment: Licensees are allowed to clean and release equipment for unrestricted release. Methods and procedures are generally approved as part of the licensing process but they may also be approved when a licensee undergoes decommissioning.
- Disposal of Waste: Licensed radioactive waste is generally disposed of by transfer to a licensed low-level radioactive wasteland burial facility. Radiation Control Rules in R313-15-1002 provide for other disposal procedures (on-site burial).
- Subsequent Use of Equipment: Contaminated equipment may be released for unrestricted use once the licensee has decontaminated the equipment Division standards. The standards used as those found in Nuclear Regulatory Commission Regulatory Guide 1.86 (June 1974).
- Subsequent Use of Materials: Licensed materials may be transferred to others for subsequent use provided the transfer is in accordance with R313-19-41.
- Release/Sale of NORM-Contaminated Land: Licensed facilities (land) must meet decommissioning clean-up standards before it may be used for unrestricted purposes.
- Projected Volume of stored NORM in the State: Unknown.
- Other: Radiation Control Rules on Internet: www.eq.state.ut.us/eqrad/dre_hmpg.htm.
- Respondent: Craig Jones

VIRGINIA

State agency: Department of Mines, Minerals and Energy, Division of Gas and Oil, Box 1416, Abingdon, Virginia 24212. Phone (540) 676-5423.

Regulatory agency: Department of Mines, Minerals and Energy, Division of Gas and Oil, P.O. Box 1416, Abingdon, Virginia 24212. Phone (703) 676-5423. Fax (703) 676-5459.

- Relevant Statute/Regulations: At this time, the Commonwealth of Virginia does not have regulations regarding NORM and does not have nor anticipate proposing regulations for naturally occurring radioactive material in oil and gas production.
- Respondent: Byron Fulmer

WASHINGTON

Stage agency: Department of Natural Resources, Olympia, Washington 98504. Phone (206) 459-6372.

Regulatory agency: Department of Health, Division of Radiation Protection, P.O. Box 47827, Olympia, Washington 98504-7827. Phone (360) 753-3459. Fax (360) 753-1496.

- Relevant Statute/Regulations: No specific NORM regulations.
- Scope: WAC 246-221-001 establishes standards for protection against radiation hazardous including Radium-226.
- Licensing: WAC 246-232-120 lists the amount of Radium-226 that is exempt from licensing.

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- Cleaning Equipment: WAC 246-232-140 Schedule D lists acceptable surface contamination levels for alpha, beta and gamma.
- Disposal of Waste: 246-249-080 Large volumes of NORM (acceptance criteria).
- Subsequent Use of Equipment: Same as 246-232-1-40.
- Subsequent Use of Materials: Same as 246-232-120.
- Release/Sale of NORM-Contaminated Land: 246-235 Specific License criteria.
- Projected Volume of stored NORM in the State: Not determined.
- Respondent: Gary Robertson

WEST VIRGINIA

State agency: West Virginia Oil and Gas Conservation Commission and the Division of Environmental Protection, Office of Oil and Gas are both located at 10 McJunkin Dr., Nitro, West Virginia 25143-2506. Phone (304) 759-0516.

Regulatory agency: Bureau for Public Health.
- Relevant State/Regulations:
- Scope: Regulations cover radioactive materials but not specific to NORM.
- Licensing: Does not license.
- Respondent: Beattie DeBord

WYOMING

State agency: Wyoming Oil and Gas Conservation Commission, P. O. Box 2640, Casper, Wyoming 82602. Phone (307) 234-7147.

Regulatory agency: Wyoming Oil and Gas Conservation Commission, P.O. Box 2640, Casper, Wyoming 82602. Phone (307) 234-7147.
- Relevant Statute/Regulations: Rule 404(J.).
- Disposal of Waste: Rule 404(J.) - Dispose of produced water, tank bottoms and other miscellaneous solid waste in a manner which is in compliance with the Commission's rules and other state, federal, or local regulations.
- Respondent: Janie Nelson

Regulatory agency: Department of Environmental Quality, Water Quality Division, 122 W. 25th St., Herschler Bldg., 4W, Cheyenne, Wyoming 82001. Phone (307) 777-7082.
- Relevant Statute/Regulations: Chapter 1, Section 22, Water Quality Rules and Regulations. Applied to NPDES permits.
- Scope: Class 1 and 2 waters not to exceed radiological limits established on the most recent Federal Primary Drinking Water standards published by EPA. Class 3 and 4 waters radium-226 concentration shall not exceed 60pci/l.
- Licensing: NPDES individual permit.
- Respondent: Tod Parfitt

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From: Helms, Lynn D. <lhelms@nd.gov>
Sent: Wednesday, March 30, 2022 4:20 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Hicks, Bruce E. <bhicks@nd.gov>; Tabor, David <adtabor@nd.gov>; Vanderbusch, Cody W. <cwvanderbusch@nd.gov>; Bohrer, Mark F. <mbohrer@nd.gov>; Haarsager, Katie A. <kahaarsager@nd.gov>; Loumer, Robyn D. <rdloumer@nd.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: North Dakota DMR comments on DRAFT initial grant guidance.
Attachment(s): "IIJA Grant Guidance Comments 03302022.pdf","IIJA Grant Guidance with edits 03302022.pdf"

Please find attached North Dakota DMR comments on Draft State Initial Grant Guidance under the Bipartisan infrastructure Law

Lynn D. Helms
Director
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NORTH DAKOTA DMR Department of Mineral Resources

March 30, 2022

Steve Feldgus
Deputy Assistant Secretary
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Deputy Assistant Secretary Feldgus and Director Tryon:

Thank you for the opportunity to provide comments on the Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law.

The North Dakota Industrial Commission Department of Mineral Resources (DMR) is a state agency with jurisdiction over identification, plugging, and site restoration of idle and orphaned wells.

DMR looks forward to continued collaboration with the US Department of Interior (DOI) on implementation of the orphan well provisions of the Bipartisan Infrastructure Law. The program objectives are to provide jobs and protect communities and the environment by plugging orphan wells, restoring well sites, and decommissioning associated facilities. Funding for state programs constitutes the largest portion of the total funding provided. DOI and state regulators will need to work in partnership to achieve the successful use of this funding and meet the legislative objectives by accelerating work already being done by the state idle and orphaned well programs. The primary responsibility for implementation of the legislation lies with the states and the guidance should support, not hinder, our efforts.

Following are DMR key comments, questions, and suggestions on the draft guidance. Attached is a modified version of the Draft Guidance document that incorporates DMR comments:

Page 1 – Best practices – While DMR agrees that it is appropriate for DOI to strongly recommend best practices, the IIJA does not give DOI the authority to place requirements on orphaned well grants that are not explicitly stated in the IIJA.

Bruce E. Hicks
ASSISTANT DIRECTOR
OIL AND GAS DIVISION

Lynn D. Helms
DIRECTOR
DEPT. OF MINERAL RESOURCES

Edward C. Murphy
STATE GEOLOGIST
GEOLOGICAL SURVEY

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Page 2 – Federal land & Federal wells – DMR agrees with the definition of Federal wells, their inclusion in the Federal Program, and the opportunity for states to use grant funds on Federal wells located on state or private surface. However, the definition should include a requirement that federal program funds be exhausted before use of grant funds received under Sec. 40601 may be used to plug and remediate Federal wells located on State or private land.

Page 3 – Orphaned Well – The word “also” just prior to the colon should be removed.

Page 4 – Paragraph B – The final sentence of paragraph B should be modified to read as follows “Funds may not be used for activities on Federal land or Tribal land, but may be used on Federal wells where the surface location is on State or private surface.

Page 6 – Recommended elements - While DMR agrees that it is appropriate for DOI to recommend elements, the IIJA does not give DOI the authority to place requirements on orphaned well grants that are not explicitly stated in the IIJA.

Page 6 – Recommended elements (b) – DOI does not have authority to set qualifications of plugging witnesses or to determine if they are qualified.

Page 6 – Recommended elements (e) – States do not have the information available to provide a detailed description. The guidance should request a general description of how states may use census data to prioritize program expenditures.

Page 6 – Recommended elements (f) – States do not currently possess the technology to track methane and other associated gas emissions from idle and orphaned wells, and any well that is plugged is automatically more environmentally friendly than an orphan well. The guidance should request a general description of how states may use published data and post plugging sampling to estimate methane emission reduction resulting from the program.

Page 6 – Recommended elements (g) – Any well that is plugged is automatically more environmentally friendly than an orphan well. The guidance should request a general description of how states may use well construction data and post plugging sampling to estimate groundwater contamination risk reduction resulting from the program.

Page 7 – Recommended elements (j) – States may not possess all of the data elements contained in the Orphaned Well Data Reporting Template. The word “all” should be stricken from this section of the guidance.

Page 7 (s) - DMR does not have a federally negotiated indirect cost rate.

Page 8 – Recommended Standards For Measurement, Plugging, and Remediation – Paragraph (A) (i) – The word “expected” should be changed to “encouraged” to be consistent with the IIJA.

Bruce E. Hicks
ASSISTANT DIRECTOR
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Page 10 – There is no definition of for how long these reports will need to be submitted. The guidance should explicitly state a time for final reporting such as 24 months after the last documented idle and orphaned well is plugged and the site reclaimed.

Page 12 – Paragraph C – The word “appropriate” should be changed to “achievable under state law”.

Page 12 – Paragraph D – DOI should add a waiver for workforce issues documented by contractors.

Page 13 – Paragraph G – DOI should add a waiver for supply chain issues documented by contractors.

Respectfully submitted,

Lynn D. Helms

Director, Department of Mineral Resources

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Attached: Draft Guidance document that incorporates DMR comments
Submitted Via orphanedwells@ios.doi.gov

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.
Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:
1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. ~~Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so s~~States ~~expecting to apply for subsequent rounds of grants~~ are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, after federal program funds are exhausted, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term ~~also~~:
(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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• measure and track contamination of groundwater or surface water associated with orphaned wells;
• remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
• remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
• identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
• administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities on Federal land or Tribal land, but may be used on Federal wells where the surface location is on State or private surface~~is owned by the United States or by an Indian Tribe~~.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. ~~Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and~~ States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements ~~(qualifications of witness, documentation)~~;
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) A general description ~~Details~~ of how the State will utilize census data to prioritize expenditures to benefit ~~identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on~~ disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) A general description of how ~~The methodology to be used by~~ the State may use published data and post plugging sampling to estimate ~~to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the~~ effectiveness of plugging activities in reducing or eliminating methane ~~such~~ emissions;
(g) A general description of how ~~The methodology to be used by~~ the State may use well construction data, plugging data, and post plugging sampling to estimate ~~measure and track contamination of~~ groundwater and surface water contamination risk reduction resulting from ~~associated with orphaned wells, including how the State will confirm the effectiveness of~~ plugging activities ~~in reducing or eliminating such contamination~~;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and ~~all~~ other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:

(a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
(b) The State has the capacity to initiate such a program; or
(c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:

(a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
(b) There are 1 or more documented orphaned wells located in the State; and
(c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged~~expected~~ to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget. This requirement ends 24 months after the last documented idle or orphaned well is plugged and the site reclaimed using grant funds received under Sec. 40601.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and achievable under state law~~appropriate~~, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees. This requirement may be waived upon adequate documentation by contractors of workforce or training issues that will delay implementation of the program.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products. This requirement may be waived upon adequate documentation by contractors of supply chain issues that will delay implementation of the program.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- o has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- o has the capacity to initiate such a program;

OR

- o that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

_____ _____
Certifying Official Name Title

_____ _____
Certifying Official Signature Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____
Certifying Official Name Title

_____ _____
Certifying Official Signature Date

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INTERSTATE Oil & Gas COMPACT COMMISSION

MEMORANDUM

TO: IOGCC Governors and Official or Associate Official Representatives

FROM: Lori Wrotenbery, Executive Director LW

RE: Notice of Meeting and Request for Resolutions
2022 Annual Business Meeting
Oklahoma City, Oklahoma
May 15-17, 2022

DATE: March 10, 2022

The Annual Business Meeting of the Interstate Oil and Gas Compact Commission (IOGCC) will be held at the Skirvin Hilton, in Oklahoma City, Oklahoma, on May 15-17, 2022. More information on the meeting is posted on the IOGCC website. We hope your schedule will allow you to participate.

This memorandum is your official notice of the deadline for submitting resolutions for consideration at the Annual Business Meeting. The IOGCC bylaws require any proposed resolution expressing a position or policy of the IOGCC to be submitted to the IOGCC office in Oklahoma City by **Friday, April 15, 2022.**

To ensure your proposed resolutions will be considered, and to give other member states an adequate opportunity for review, please observe the April 15th deadline. Resolutions submitted after that date will require a two-thirds vote of the members of the Resolutions Committee present and a two-thirds vote of the member states present to be considered at the Annual Business Meeting.

Enclosed is an information sheet titled "Drafting an IOGCC Resolution and Action Plan." An action plan must accompany each proposed resolution.

If you or your staff have any questions regarding the upcoming meeting or the resolutions process, please contact me by phone at (405) 522-8381 or by email at Lori.Wrotenbery@iogcc.state.ok.us.

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From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Thursday, July 29, 2021 6:12 PM EDT
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Subject: Notice of Rule Adoption, Order No. R-21674-C, and Final Rule 19.15.29 NMAC
Attachment(s): "Notice of Rule Adoption.docx","Order No. R-21674-C.pdf","Final Rule - Case 21834.pdf"

Attached is the Notice of Rule Adoption, Order No. R-21674-C adopting amendments to Sections 6, 8, and 15 of Rule 19.15.29 NMAC, and the final Rule No. 19.15.29 NMAC. The rule changes were filed with the State Records Center on July 29, 2021 and will become effective on August 24, 2021.

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TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 29 RELEASES

19.15.29.1 ISSUING AGENCY: Oil Conservation Commission.
[19.15.29.1 NMAC - Rp, 19.15.29.1 NMAC, 8/14/2018]

19.15.29.2 SCOPE: 19.15.29 NMAC applies to persons engaged in oil and gas development and production within New Mexico.
[19.15.29.2 NMAC - Rp, 19.15.29.2 NMAC, 8/14/2018]

19.15.29.3 STATUTORY AUTHORITY: 19.15.29 NMAC is adopted pursuant to the Oil and Gas Act, Section 70-2-11 NMSA 1978 (1977) and Section 70-2-12 NMSA 1978 (2004).
[19.15.29.3 NMAC - Rp, 19.15.29.3 NMAC, 8/14/2018]

19.15.29.4 DURATION: Permanent.
[19.15.29.4 NMAC - Rp, 19.15.29.4 NMAC, 8/14/2018]

19.15.29.5 EFFECTIVE DATE: August 14, 2018, unless a later date is cited at the end of a section.
[19.15.29.5 NMAC - Rp, 19.15.29.5 NMAC, 8/14/2018]

19.15.29.6 OBJECTIVE: To prohibit releases and require persons who operate or control the release or the location of the release to report the unauthorized release of oil, gases, produced water, condensate or oil field waste including regulated NORM or other oil field related chemicals, contaminants or mixtures of those chemicals or contaminants that occur during drilling, producing, storing, disposing, injecting, transporting, servicing or processing and to establish procedures for reporting, site assessment, remediation, closure, variance and enforcement.
[19.15.29.6 NMAC - Rp, 19.15.29.6 NMAC, 8/14/2018; A, 8/24/2021]

19.15.29.7 DEFINITIONS:

A. **"Major release"** means:

(1) an unauthorized release of a volume, excluding gases, of 25 barrels or more;

(2) an unauthorized release of a volume that:

(a) results in a fire or is the result of a fire;

(b) may with reasonable probability reach a watercourse;

(c) may with reasonable probability endanger public health; or

(d) substantially damages property or the environment;

(3) an unauthorized release of gases exceeding 500 MCF; or

(4) a release of a volume that may with reasonable probability be detrimental to fresh water.

B. **"Minor release"** means an unauthorized release, which is not a major release and is a volume greater than five barrels but less than 25 barrels; or for gases, greater than 50 MCF but less than 500 MCF.

C. **"Responsible party"** means the operator, as defined in 19.15.2 NMAC. Notwithstanding the foregoing, the division, in its sole discretion, may also consider a person causing the release, or controlling the location of the release as the responsible party.

D. **"Wellstream"** means the gas, oil, water, suspended constituents, or any combination thereof, which comes from the wellbore.
[19.15.29.7 NMAC - Rp, 19.15.29.7 NMAC, 8/14/2018]

19.15.29.8 RELEASES:

A. **Prohibition.** Except as provided in 19.15.27 NMAC or 19.15.28 NMAC, major releases and minor releases are prohibited.

B. **Requirements.** For all releases regardless of volume, the responsible party shall comply with 19.15.29.8 NMAC and shall remediate the release. For major and minor releases, the responsible party shall also comply with 19.15.29.9, 19.15.29.10, 19.15.29.11, 19.15.29.12 and 19.15.29.13 NMAC.

C. **Initial response.** The responsible party must take the following immediate actions unless the actions could create a safety hazard that would result in injury.

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(1) Source elimination and site security. The responsible party must take appropriate measures to stop the source of the release and limit access to the site as necessary to protect human health and the environment.

(2) Containment. Once the site is secure, the responsible party must contain the materials released by construction of berms or dikes, the use of absorbent pads or other containment actions to limit the area affected by the release and prevent potential fresh water contaminants from migrating to watercourses or areas that could pose a threat to public health and environment. The responsible party must monitor the containment to ensure that it is effectively containing the material and not being degraded by weather or onsite activity.

(3) Site stabilization. After containment, the responsible party must recover any free liquids and recoverable materials that can be physically removed from the surface within the containment area. The responsible party must deliver material removed from the site to a division-approved facility.

(4) Remediation. The responsible party may commence remediation immediately.

[19.15.29.8 NMAC - Rp, 19.15.29.8 NMAC, 8/14/2018; A, 8/24/2021]

19.15.29.9 RELEASE NOTIFICATION:

A. The responsible party must notify the division on form C-141 of a major or minor release occurring during the drilling, producing, storing, disposing, injecting, transporting, servicing or processing of oil, gases, produced water, condensate or oil field waste including regulated NORM, or other oil field related chemicals, contaminants or mixture of the chemicals or contaminants, in accordance with the requirements of 19.15.29 NMAC.

B. If state, federal or tribal lands are involved, the responsible party must send a copy of the form C-141 to the appropriate land managing agency including the state land office, the BLM or tribal authority, as applicable.

[19.15.29.9 NMAC - Rp, 19.15.29.9 NMAC, 8/14/2018]

19.15.29.10 RELEASE NOTIFICATION REPORTING REQUIREMENTS: The responsible party must notify the division of releases in 19.15.29.9 NMAC as follows.

A. Reporting a major release.

(1) The responsible party must notify the division's environmental bureau chief and the appropriate division district office verbally or by e-mail within 24 hours of discovery of the release. The notification must provide the information required on form C-141.

(2) The responsible party must also notify the appropriate division district office in writing within 15 days of discovering the release by completing and filing form C-141. The written notification must verify the prior verbal or e-mail notification and include additions or corrections to the information contained in the prior verbal or e-mail notification.

B. Reporting a minor release. The responsible party must notify the appropriate division district office in writing within 15 days of discovery of the release by completing and filing form C-141.

[19.15.29.10 NMAC - Rp, 19.15.29.10 NMAC, 8/14/2018]

19.15.29.11 SITE ASSESSMENT/CHARACTERIZATION: After the responsible party has removed all free liquids and recoverable materials, the responsible party must assess soils both vertically and horizontally for potential environmental impacts from any major or minor release containing liquids.

A. Characterization requirements. The responsible party must submit information characterizing the release to the appropriate division district office within 90 days of discovery of the release or characterize the release by submitting a final closure report within 90 days of discovery of the release in accordance with Subsection E of 19.15.29.12 NMAC. The responsible party may seek an extension of time to submit characterization information for good cause as determined by the division. The responsible party must submit the following information to the division.

(1) Site map. The responsible party must provide a scaled diagram that shows the potentially impacted area, significant surface features including roads and site infrastructure, location of borings, sample points, monitoring wells and subsurface features such as known pipelines to the extent known at the time of submittal including the source of information regarding subsurface features.

(2) Depth to ground water. The responsible party must determine the depth to ground water where the release occurred. If the exact depth to ground water is unknown, the responsible party must provide a reasonable determination of probable ground water depth using data generated by numeric models, cathodic well lithology, water well data, published information or other tools as approved by the appropriate division district

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office. If the responsible party uses water well data, the responsible party must provide all pertinent well information.

(3) Wellhead protection area. The responsible party must determine the horizontal distance from all known water sources within a half mile of the release including private and domestic water sources. Water sources are wells, springs or other sources of fresh water extraction. Private and domestic water sources are those water sources used by less than five households for domestic or stock purposes.

(4) Distance to nearest significant watercourse. The responsible party must determine the horizontal distance to the nearest significant watercourse as defined in Subsection P of 19.15.17.7 NMAC within a half mile of any horizontal boundary of the release.

(5) Soil/waste characteristics. The responsible party must determine the lateral and vertical extents of soil contamination, as follows.

(a) If the release occurred within a lined containment area, the responsible party must demonstrate liner integrity after affected material is removed and the affected area of the liner is exposed and provide:

(i) certification on form C-141 that the responsible party has visually inspected the liner where the release occurred and the liner remains intact and had the ability to contain the leak in question; and

(ii) at least two business days' notice to the appropriate division district office before conducting the liner inspection.

(b) If the responsible party is unable to demonstrate liner integrity or the release occurred outside of a lined containment area, the responsible party must delineate the release horizontally and vertically using Table I of 19.15.29.12 NMAC constituents or as required by Subparagraph (e) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC based on the type of release. The responsible party shall use one or more of the following soil sampling methods for characterization:

(i) NRCS Field Guide;

(ii) EPA SW-846;

(iii) ASTM Method 4547;

(iv) EPA 600; or

(v) or other division-approved methods.

(c) In addition to Subparagraph (b) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, if the release occurred outside of a lined containment area and is in an area where depth to ground water is greater than 50 feet and less than or equal to 100 feet, the responsible party must delineate the vertical extent of the release to the greater of 600 mg/kg chloride or background chloride level, if:

(i) the release contains produced water that exceeds 10,000 mg/l of chloride (if the responsible party contends the fluid is less than 10,000 mg/l, the responsible party must provide current sample results to the division); and

(ii) the release is of an unknown quantity or results in greater than 200 barrels of unrecovered produced water.

(d) If the conditions are met in Subparagraph (c) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, the responsible party must submit at least two soil samples for laboratory analysis from each borehole or sample point (highest observed contamination and deepest depth investigated). Field screening and assessment techniques are acceptable (headspace, titration, electrical conductivity [include algorithm for validation purposes], electromagnetics, etc.), but the sampling procedures must be clearly defined. The responsible party must submit copies of field notes attributable to field sampling and provide copies of the actual laboratory results including chain of custody documentation.

(e) If a known release of other oil field related chemicals occurs that is not included in Table I of 19.15.29.12 NMAC, and does not include oil, gas, produced water or other fluids from the wellstream, the standards for remediation shall be as follows:

(i) if the constituent appears on Table 1 of 40 C.F.R. 261.24(b), then that constituent shall be remediated according to 40 C.F.R. 261.24;

(ii) if the constituent is not identified in Table 1 of 40 C.F.R. 261.24(b), but is identified in the New Mexico environment department's Risk Assessment Guidance for Site Investigations and Remediation Volumes I and II (assessment), the division will determine the appropriate Assessment Volume and remediation shall occur pursuant to the assessment;

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(iii) if the constituent is not identified in Items (i) or (ii) of Subparagraph (e) of Paragraph (5) of Subsection A of 19.15.29.11 NMAC, the division shall consult with the responsible party to determine appropriate remediation of the release.

B. Unless the site characterization report includes completed efforts at remediation, the report must include a proposed remediation plan in accordance with 19.15.29.12 NMAC, which includes the anticipated timelines for beginning and completing the remediation.

C. If the division determines that more information is needed to understand the character of the release and its potential impact on fresh water, public health and the environment, the division may request the responsible party submit additional information. Should the division request additional information, it must do so in writing to the responsible party within 30 days from receipt of the characterization report or remediation plan with what specific information the division is requesting and reasons why the additional information is needed. The responsible party has 14 days to respond to a written request for additional information. If the responsible party disagrees with the request for additional information, it may consult with the division, or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the issuance of the request for additional information. [19.15.29.11 NMAC - Rp, 19.15.29.11 NMAC, 8/14/2018]

19.15.29.12 REMEDIATION AND CLOSURE:

A. The responsible party must remediate all releases regardless of volume.

B. Remediation requirements.

(1) Unless remediation is completed, and a final closure report submitted, within 90 days of discovery of the release, the responsible party must complete division-approved remediation for releases either pursuant to a remediation plan approved pursuant to 19.15.29.12 NMAC or pursuant to an abatement plan in accordance with 19.15.30 NMAC. If the director determines that the release has caused water pollution in excess of the standards and requirements of 19.15.30 NMAC, the director may notify the responsible party that an abatement plan may be required pursuant to 19.15.30 NMAC.

(2) Any remediation under 19.15.29 NMAC should be completed as soon as practicable. Any remediation that exceeds 90 days must follow the division-approved timeline in the remediation plan. The responsible party may request an extension of time to remediate upon a showing of good cause as determined by the division.

C. Remediation plan requirements. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must submit a detailed description of proposed remediation measures in accordance with the findings of the site assessment/characterization plan that includes:

(a) delineation results, including laboratory analysis;

(b) a scaled sitemap showing release area with horizontal and vertical delineation points;

(c) estimated volume of impacted material to be remediated;

(d) proposed remediation technique; and

(e) proposed timeline for remediation activities.

(2) The responsible party shall restore the impacted surface area of a release occurring on a developed well pad, central tank battery, drilling site, compressor site or other exploration, development, production or storage sites to meet the standards of Table I of 19.15.29.12 NMAC or other applicable remediation standards and restore and reclaim the area pursuant to 19.15.29.13 NMAC. If contamination is located in areas immediately under or around production equipment such as production tanks, wellheads and pipelines where remediation could cause a major facility deconstruction, the remediation, restoration and reclamation may be deferred with division written approval until the equipment is removed during other operations, or when the well or facility is plugged or abandoned, whichever comes first. The deferral may be granted so long as the contamination is fully delineated and does not cause an imminent risk to human health, the environment, or ground water. Final remediation and reclamation shall take place in accordance with 19.15.29.12 and 19.15.29.13 NMAC once the site is no longer being used for oil and gas operations.

(3) The responsible party shall remediate the impacted surface area of a release not occurring on a lined, bermed or otherwise contained exploration, development, production or storage site to meet the standards of Table I of 19.15.29.12 NMAC or other applicable remediation standards and restore and reclaim the area pursuant to 19.15.29.13 NMAC.

(4) If a release occurs within the following areas, the responsible party must treat the release as if it occurred less than 50 feet to ground water in Table I of 19.15.29.12 NMAC:

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(a) within

(i) 300 feet of any continuously flowing watercourse or any other significant watercourse, or

(ii) 200 feet of any lakebed, sinkhole or playa lake (measured from the ordinary high-water mark);

(b) within 300 feet from an occupied permanent residence, school, hospital, institution or church;

(c) within

(i) 500 feet of a spring or a private, domestic fresh water well used by less than five households for domestic or stock watering purposes, or

(ii) 1000 feet of any fresh water well or spring;

(d) within incorporated municipal boundaries or within a defined municipal fresh water well field covered under a municipal ordinance adopted pursuant to Section 3-27-3 NMSA 1978 as amended, unless the municipality specifically approves;

(e) within 300 feet of a wetland;

(f) within the area overlying a subsurface mine;

(g) within an unstable area; or

(h) within a 100-year floodplain.

(5) The division has 60 days from receipt of the proposed remediation plan to review and approve, approve with conditions or deny the remediation plan. If 60 days have lapsed without response from the division, then the plan is deemed denied. If the plan is approved with conditions or affirmatively denied, the division shall provide a written summary of deficiencies on which the decision is based. If the responsible party disagrees with any conditions of approval or denial of the plan, it shall consult with the division or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the denial or issuance of the conditions.

D. Closure requirements. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must test the remediated areas for contamination with representative five-point composite samples from the walls and base, and individual grab samples from any wet or discolored areas. The samples must be analyzed for the constituents listed in Table I of 19.15.29.12 NMAC or constituents from other applicable remediation standards.

(a) The responsible party must verbally notify the appropriate division district office two business days prior to conducting final sampling. If the division district office does not respond to the notice within the two business days, the responsible party may proceed with final sampling. The responsible party may request a variance from this requirement upon a showing of good cause as determined by the division.

(b) The responsible party may submit a composite and grab sample plan for the division's review and approval separately or with the remediation plan.

(c) Alternately, without division approval, the responsible party may elect to perform a composite and grab sample plan of the remediated area where each composite sample is not representative of more than 200 square feet.

(2) If all composite and grab sample concentrations are less than or equal to the parameters listed in Table I of 19.15.29.12 NMAC or any conditions of approval, then the responsible party may proceed to backfill any excavated areas.

E. Closure reporting. The responsible party must take the following action for any major or minor release containing liquids.

(1) The responsible party must submit to the division a closure report on form C-141, including required attachments, to document all closure activities including sampling results and the details on any backfilling, capping or covering, where applicable. The responsible party must certify that all information in the closure report and attachments is correct and that the responsible party has complied with all applicable closure requirements and conditions specified in division rules or directives. The responsible party must submit closure report along with form C-141 to the division within 90 days of the remediation plan approval. The responsible party may apply for additional time to submit the final closure report upon a showing of good cause as determined by the division. The final report must include:

(a) a scaled site and sampling diagram;

(b) photographs of the remediated site prior to backfill;

(c) laboratory analyses of final sampling; and

(d) a description of all remedial activities.

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(2) The division district office has 60 days to review and approve or deny the closure report. If 60 days have lapsed without response from the division, then the report is deemed denied. If the report is affirmatively denied, the division shall provide a written summary of deficiencies on which the decision is based. If the responsible party disagrees with denial of the closure report, it may consult with the division or file an application for hearing pursuant to 19.15.4 NMAC within 30 days of the denial.

Table I
Closure Criteria for Soils Impacted by a Release

Minimum depth below any point within the horizontal boundary of the release to ground water less than 10,000 mg/l TDS	Constituent	Method*	Limit**
≤ 50 feet	Chloride***	EPA 300.0 or SM4500 Cl B	600 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	100 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg
51 feet-100 feet	Chloride***	EPA 300.0 or SM4500 Cl B	10,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg
>100 feet	Chloride***	EPA 300.0 or SM4500 Cl B	20,000 mg/kg
	TPH (GRO+DRO+MRO)	EPA SW-846 Method 8015M	2,500 mg/kg
	GRO+DRO	EPA SW-846 Method 8015M	1,000 mg/kg
	BTEX	EPA SW-846 Method 8021B or 8260B	50 mg/kg
	Benzene	EPA SW-846 Method 8021B or 8260B	10 mg/kg

*Or other test methods approved by the division.
**Numerical limits or natural background level, whichever is greater.
***This applies to releases of produced water or other fluids, which may contain chloride.
[19.15.29.12 NMAC - N, 8/14/2018]

19.15.29.13 RESTORATION, RECLAMATION AND RE-VEGETATION:

A. The responsible party must substantially restore the impacted surface areas to the condition that existed prior to the release or their final land use. Restoration of the site must include the replacement of removed material and must be replaced to the near original relative positions and contoured to achieve erosion control, long-term stability and preservation of surface water flow patterns.

B. Areas reasonably needed for production operations or for subsequent drilling operations must be compacted, covered, paved or otherwise stabilized and maintained in such a way as to minimize dust and erosion to the extent practical.

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C. The responsible party must construct the soil cover to the site's existing grade and prevent ponding of water and erosion of the cover material.

D. Reclamation of areas no longer in use. The responsible party shall reclaim all areas disturbed by the remediation and closure, except areas reasonably needed for production operations or for subsequent drilling operations, as early and as nearly as practical to their original condition or their final land use and maintain those areas to control dust and minimize erosion to the extent practical.

(1) The reclamation must contain a minimum of four feet of non-waste containing, uncontaminated, earthen material with chloride concentrations less than 600 mg/kg as analyzed by EPA Method 300.0, or other test methods approved by the division. The soil cover must include a top layer, which is either the background thickness of topsoil or one foot of suitable material to establish vegetation at the site, whichever is greater.

(2) The responsible party must reseed disturbed area in the first favorable growing season following closure of the site.

(3) The division will consider reclamation of all disturbed areas complete when uniform vegetative cover has been established that reflects a life-form ratio of plus or minus fifty percent of pre-disturbance levels and a total percent plant cover of at least seventy percent of pre-disturbance levels, excluding noxious weeds.

(4) For any major or minor release containing liquids, the responsible party must notify the division when reclamation and re-vegetation are complete.

E. The surface restoration, reclamation and re-vegetation obligations imposed by federal or state agencies or tribes on lands managed or owned by those agencies supersede these provisions and govern the obligations of any responsible party subject to those provisions, provided that the other requirements provide equal or better protection of fresh water, human health and the environment.

[19.15.29.13 NMAC - N, 8/14/2018]

19.15.29.14 VARIANCES:

A. A responsible party may file a written request for a variance from any requirement of 19.15.29 NMAC with the appropriate division district office. The variance request must include:

(1) a detailed statement explaining the need for a variance; and

(2) a detailed written demonstration that the variance will provide equal or better protection of fresh water, public health and the environment.

B. The division district office must approve or deny the variance in writing within 60 days of receipt. If the division district office denies the variance, it must provide the responsible party with the reasons for denial.

C. If the division district office does not approve or deny a request for variance from the requirements of 19.15.29 NMAC within 60 days of the date the request for variance is received by the division district office, then the request for variance is deemed denied and the responsible party may file an application for a hearing pursuant to 19.15.4 NMAC within 30 days of the denial.

D. If the responsible party requests a hearing pursuant to 19.15.4 NMAC within 30 days after receipt of notice, the division must set the matter for hearing with notice to the responsible party and appropriate division district office.

E. In addition to the notice provisions in 19.15.4 NMAC, the responsible party must provide notice of the hearing on the request for variance to the surface owner of the site by certified mail, return receipt requested, at least 20 days prior to the date of the hearing.

F. Variances must receive division approval prior to implementation.

[19.15.29.14 NMAC - N, 8/14/2018]

19.15.29.15 ENFORCEMENT:

A. The responsible party must comply with all the requirements of 19.15.29 NMAC. The division may take enforcement action pursuant to 19.15.5.10 NMAC against any responsible party who does not comply with 19.15.29 NMAC.

B. A responsible party may enter a stipulated final order with the division for any violation of 19.15.29 NMAC, except for 19.15.29.9 NMAC. An agreed compliance order may be entered prior to or after the filing of an application by the division or any other party for an administrative compliance proceeding. Any administrative compliance order will have the same force and effect as a compliance order issued after an adjudicatory hearing.

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C. The director or the director's designee may deny any application or permit, including but not limited to, a permit to drill, deepen or plug back a well if the responsible party is not in compliance with a court order or final order arising from 19.15.29 NMAC.
[19.15.29.15 NMAC - N, 8/14/2018; A, 8/24/2021]

19.15.29.16 TRANSITIONAL PROVISIONS:

A. Responsible parties with current ongoing corrective actions/remediation with approved plans and timelines as of August 14, 2018 do not have to submit revised plans.

B. Responsible parties with ongoing corrective actions/remediation without approved timelines or plans as of August 14, 2018 must submit a characterization plan or corrective action/remediation plan with proposed timeframes within 90 days of August 14, 2018.
[19.15.29.16 NMAC - N, 8/14/2018]

HISTORY of 19.15.29 NMAC:

History of Repealed Material:
19.15.3 NMAC, Drilling (filed 10/29/2001) repealed 12/1/2008.
19.15.29 NMAC, Release Notification (filed 12/1/2008) was repealed effective 8/14/2018.

NMAC History:
That applicable portion of 19.15.3 NMAC, Drilling (Section 116) (filed 10/29/2001) was replaced by 19.15.29 NMAC, Release Notification, effective 12/1/2008.
19.15.29 NMAC, Release Notification (filed 12/1/2008) was repealed and replaced by 19.15.29, Releases, effective 8/14/2018.

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NEW MEXICO OIL CONSERVATION COMMISSION

Notice of Rule Adoption

The New Mexico Oil Conservation Commission (Commission) hereby gives notice that it has adopted changes to Rule 19.15.29 NMAC in Case No. 21834. The rule changes were filed with the State Records Center on July 29, 2021. A copy of the rule changes along with Commission Order No. R-21674-C are available from Commission Clerk, Florene Davidson at florene.davidson@state.nm.us or can be viewed at the Oil Conservation Division's website at www.emnrd.nm.gov under the "Rules" link.

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION AND WILDEARTH GUARDIANS TO CONSIDER THE PROPOSED AMENDMENTS TO RULES 19.15.29.6, 19.15.29.8 AND 19.15.29.15 NMAC CONCERNING RELEASES

CASE NO. 21834
ORDER NO. R-21674-C

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission ("Commission") on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department ("Division") and WildEarth Guardians ("WEG") to amend Rules 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC. The Commission conducted a rulemaking hearing in this matter on June 9 and subsequently deliberated in open session on June 10, 2021. The Commission, having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

THE COMMISSION FINDS THAT:

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically, Section 70-2-6 (authorizing the Commission to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Sections 70-2-11 (authorizing the Commission to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), Section 70-2-12 (enumerating the powers of the Commission and Division), and Section 70-2-31 (authorizing the Division to bring administrative and judicial actions for violations of the Oil and Gas Act and Commission rules). The public hearing in this matter was conducted in accordance with the Commission's rule on rulemaking proceedings, 19.15.3 NMAC.

2. Application and Notice. The Division and WEG filed an Application on March 11, 2021, to amend Rules 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC to prohibit major and minor releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production to protect public health and the environment, and to conform 19.15.29.15 NMAC with the general enforcement provisions of 19.15.5.10 NMAC, which were adopted by the Commission in 2020. The Application included a draft of the proposed rule changes and a proposed legal notice. 19.15.3.8(A) NMAC.

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3. At a public meeting on April 15, 2021, the Commission decided to hold a hearing on the proposed rule changes and scheduled the rulemaking hearing to begin on June 9, 2021. 19.15.3.8(C) NMAC. The Commission determined that the hearing would be held in a virtual and telephonic format due to the public health restrictions in place to combat the COVID-19 pandemic. The Commission decided to require that anyone wishing to present technical testimony to identify all witnesses to be presented at the hearing and submit a summary of each witness's anticipated testimony, and that all members of the public should notify the Commission Clerk if they wished to address the Commission during the hearing. Commission also provided a written comment period of fifty-six (56) days, from April 15, 2021 to June 9, 2021.

4. Pre-hearing statements were submitted by the Division; WEG; the New Mexico Environmental Law Center ("NMELC") representing the Rio Grande Chapter of the Sierra Club, the Pueblo Action Alliance, Citizens Caring for the Future, the Native American Voters Alliance Education Project ("NAVAEP"), and Amigos Bravos; the Independent Petroleum Association of New Mexico ("IPANM"); and the New Mexico Oil and Gas Association ("NMOGA"). The parties proposed to present a mix of technical and non-technical witnesses, which included anticipated written testimony provided with the pre-hearing statements, as well as oral testimony during the hearing. OCD, with concurrence of WEG, IPANM, and NMOGA, proffered the initial rule changes, with NMELC offering its proposed modifications through its pre-hearing statement. In particular, NMELC's proposed rule amendments sought to add three additional regulatory requirements beyond the proposals of OCD and WEG. Additionally, the Commission reviewed all written comments, which it received prior to the hearing, and heard oral comments made during the hearing. Comments included an objection to the proposed rule changes, support for the proposed rule changes, and suggested alternative language and other modifications to the proposed rule changes.

5. Proposed Rule Changes. The Division proposed to amend 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC. The proposed rule changes and proposed modification:

a. Amended 19.15.29.6 NMAC to clarify that one of the objectives of 19.15.29 NMAC is to prohibit unauthorized major and minor releases;
b. Amended 19.15.29.8 NMAC to provide for an express prohibition on major and minor releases subject to exceptions found in 19.15.27 and 19.15.28 NMAC;
c. Amended 19.15.29.15 NMAC to align the rule with the enforcement rule found in 19.15.5.10 NMAC, which was adopted by the Commission in 2020.

6. Motion Hearing. Subsequent to the Commission's entry of its procedural order setting forth deadlines for the parties and the filing of pre-hearing statements as required under the procedural order, OCD, NMOGA, IPANM, WEG filed motions seeking to strike, exclude, or otherwise prohibit NMELC from proffering certain evidence at the June 9, 2021 hearing.

7. On June 4, 2021, Commission Hearing Officer Felicia Orth presided over a properly noticed motion hearing to address the Parties' filings. After hearing the arguments of the

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Parties and consulting relevant law, Hearing Officer Orth issued Order No. R-21674-B that, in summary:

a. Permitted NMELC to present testimony in support of OCD and WEG's proposed rule amendments;

b. Found NMELC's proposed additional regulatory requirements are not properly part of the rulemaking;

c. Invited NMELC to file its own petition to amend the rules subject to the current rulemaking;

d. Found that NMELC's pre-hearing statement, while not fully compliant with the Commission's rules or the Commission's procedural order, provides sufficient information to the other Parties concerning Mr. Zupan, but permitted the Parties to renew objections to Mr. Zupan's testimony should he offer testimony not contemplated by NMELC's pre-hearing statement;

e. Prohibited Kayley Shoup from providing testimony concerning a purported connection between cancer and releases due to a lack of professional expertise on the matter;

f. Barred NMELC from proffering Mr. Gaume's Excel workbook into evidence, including testimony referring to or relying upon such workbook;

g. Barred NMELC from introducing its proposed additional regulatory requirements into evidence.

8. At the rulemaking hearing in this matter, NMELC appeared to elicit testimony from Mr. Norman Gaume, in violation of the Hearing Officer's order, to which other Parties objected, and such testimony, while given at the rulemaking hearing, is not contemplated by this Order.

9. Public Hearing. The Commission conducted a virtual public hearing on the proposed rule changes on June 9, 2021. The Commission subsequently deliberated in open session on June 10, 2021.

10. Documentary Evidence. In conjunction with their prehearing statements, OCD and NMELC provided proposed exhibits for the hearing, which generally included summaries of written technical testimony and corresponding presentations, witness résumés, proposed changes and additions to the rule amendments, and empirical demonstrative documents. Each Commissioner reviewed the proposed exhibits before, during and after the rulemaking hearing and subsequently admitted into the record such exhibits during the course of the rulemaking hearing.

11. Public Comment. Members of the public were requested to notify the Commission Clerk in advance of the meeting if they wished to provide public comment. The Commission heard nine (9) public comments during the course of the hearing. The Commission provided multiple

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opportunities for the public to provide public comment during the hearing. Several people provided comments in their individual capacity, as well as on behalf of various organizations.

12. Public comment included substantial support for the proposed rule changes, the methods used to draft the proposed rules and the hearing procedures more generally. An overwhelming majority of commenters voiced support for increasing the Division's efforts to monitor and prevent releases, averring that such enforcement and prevention methods would reduce general environmental damage, protect public health both general and specifically in Native American communities, and otherwise advance the interests of New Mexican citizens. Other comments included requests that the Commission create much more stringent regulations, including addition of source characterization reporting, notification requirements to owners or occupants of lands adjacent to unauthorized releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production, and requests for harsher penalties for those violating the stricter regulations.

13. Written Comments. The Commission received two (2) written comments from an individual and a nongovernmental organization prior to the hearing. The Commission formally entered all received written comments into the hearing record and reviewed these comments as part of the record of this hearing.

14. Division Testimony: The Division presented one witness in its case-in-chief: Jim Griswold. Mr. Griswold was subject to cross-examination by the other parties and by the Commissioners and Commission Counsel.

15. The Division proffered Jim Griswold, Special Projects Manager and former Environmental Bureau Chief for the Division, as witness on the Division's historical regulation of releases, Division's database of reported releases between 2010 and 2020, the nature of major and minor releases that require remediation, the proposed modifications, and the Division's perspective on the benefits of the proposed modifications.

16. Mr. Griswold detailed his work history with the Division, touching on role handling oil and gas releases, including characterization and remediation. Mr. Griswold also pointed to his experience in administrative rulemaking and crafting of guidance under such rules. Mr. Griswold testified that he is quite familiar with Part 29, which encompasses the proposed rule changes at issue in this rulemaking.

17. Mr. Griswold testified that the intent of the proposed rule changes is to bar releases.

18. Mr. Griswold explained that the proposed rule changes to 19.15.29.6 and 19.15.29.8 NMAC were intended to clarify the proposed prohibition on major and minor releases.

19. Mr. Griswold further stated that the proposed changes to 19.15.29.6 and 19.15.29.8 NMAC bring Part 29 into harmony with Part 5, the enforcement provisions, of the Division's rules.

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20. Mr. Griswold provided a lengthy history of Part 29, starting in 1991. Mr. Griswold explained how Part 29 evolved from primarily a reporting requirement rule, to a remediation rule, and then to a rule that addresses impacts of and responses to releases.

21. Mr. Griswold based his testimony pertaining to Part 29 on the Division's Exhibits two (2) through five (5), with those exhibits reflecting the evolution of Part 29 since 1991.

22. Turning to the purposes of the proposed rule changes, Mr. Griswold testified that reducing the frequency and severity of releases due to their adverse effects on public health and the environment are the priority. Mr. Griswold provided examples of such adverse effects, including the fact that releases contain substances toxic to animal and plant life, but also may find their way into groundwater and otherwise spread beyond the release site.

23. Mr. Griswold stated he reviewed the Division's database for reported releases between 2010 and 2020. Mr. Griswold found that the average number of releases per day totaled 3.4. The approximate number of releases between 2010 and 2020 totaled twelve-thousand (12,000), with about seven-thousand (7,000) involving produced water and four-thousand (4,000) involving crude oil.

24. Mr. Griswold defined a "major release" of liquids as greater than twenty-five (25) barrels, or one-thousand and fifty (1,050) gallons.

25. Mr. Griswold also noted that, while theoretically all releases are preventable, such high expectations are unrealistic. Mr. Griswold then opined that he believes a significant fraction of releases is, in fact, preventable through the implementation of best practices by operators.

26. Turning to the proposed rule changes, Mr. Griswold testified that:

a. As to 19.15.29.6 NMAC, the addition of the language "prohibit releases" clarifies the current language and expressly establishes a prohibition on releases. The remaining changes to Section 6 clean up the rule's language for clarity.

b. As to 19.15.29.8 NMAC, Section 8 sets forth the unambiguous prohibition on major and minor releases, providing for exceptions as found in Parts 27 and 28 of the Division's regulations. Mr. Griswold pointed out that, under Parts 27 and 28, venting and flaring could be characterized as an authorized release, and therefore must be accommodated under the proposed modifications to Section 6.

c. As to 19.15.29.15 NMAC, Mr. Griswold testified that Section 15 is the enforcement provision of Part 29. The proposed changes to this section relate to the 2020 modifications of Part 5 of the Division's regulations, thus aligning Part 29 and Part 5.

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d. Mr. Griswold testified that the Division and WEG's proposed changes aim to result in fewer releases. Further, Mr. Griswold testified that Part 29, through the proposed rule changes, is the primary regulation governing releases.

e. Mr. Griswold outlined that the proposed rule changes to Part 29 grant the Division the authority to pursue civil penalties against operators responsible for unauthorized releases, a tool that should be helpful in curtailing future releases.

27. Mr. Griswold testified that the proposed rule changes came out of a collaborative process and that OCD supports the proposed rule changes. Mr. Griswold further stated that the proposed rule changes should generate more up-front due diligence by operators such that releases diminish in number.

28. WEG's Testimony: WEG presented no witnesses at the rulemaking hearing.

29. IPANM's Testimony: IPANM presented no witnesses at the rulemaking hearing.

30. NMOGA's Testimony: NMOGA presented no witnesses at the rulemaking hearing.

31. NMELC's Testimony: NMELC proffered six (6) witnesses at the rulemaking hearing: Camilla Feibelman on behalf of the Rio Grande chapter of the Sierra Club; Julia Bernal on behalf of the Pueblo Action Alliance; Kayley Shoup on behalf of Citizens Caring for the Future; Joseph Hernandez on behalf of NAVAEP; Joseph Zupan on behalf of Amigos Bravos; and Norman Gaume on behalf of Sierra Club. These witnesses were subject to cross-examination by the other parties and by the Commissioners and Commission Counsel.

32. NMELC proffered Kayley Shoup on behalf of Citizens Caring for the Future as a nontechnical witness. Ms. Shoup testified that she is a community organizer in southeastern New Mexico for Citizens Caring for the Future. Citizens Caring for the Future is a group of engaged citizens seeking to find an informed and safe path to ensure protections for member communities in the face of rapid oil and gas development in Southeast New Mexico, per Ms. Shoup.

33. Ms. Shoup testified that she is a native of Carlsbad, New Mexico and maintains her present role as a community organizer due to extensive impact of oil and gas development in her community. Ms. Shoup explained that she took up the role of community organizer precisely because of the issues of produced water and oilfield waste.

34. Ms. Shoup shared her experience with the produced water rulemaking conducted by the Commission in 2019 and how she perceived the Division as lacking authority to handle releases properly on community member lands.

35. Ms. Shoup wishes the Commission to adopt the proposed rule changes, but to focus more on how producers should remediate release sites. Ms. Shoup further testified that she has not personally been harmed by oilfield releases. However, Ms. Shoup does support this rulemaking.

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36. NMELC proffered Camilla Feibelman on behalf of the Rio Grande Chapter of the Sierra Club as a nontechnical witness. Ms. Feibelman is the director of the Rio Grande Chapter of the Sierra Club. Ms. Feibelman has a master's degree in planning from the University of Puerto Rico and earned her undergraduate degree in environmental biology from Colombia University. Ms. Feibelman worked and continues to work on environmental issues, which includes participation in technical rulemakings concerning environmental quality and protection.

37. Ms. Feibelman testified that the Rio Grande Chapter of the Sierra Club's mission is to explore, enjoy, and protect the planet, with that mission directly relating to the subject matter of this rulemaking.

38. Ms. Feibelman stated that the proposed rules are necessary to reduce the impact of the oil and gas industry on people and the environment. Ms. Feibelman further opined that collaborative rulemaking such as the present one are key to moving forward on protecting air, water, and other aspects of the environment.

39. Ms. Feibelman testified that the proposed rules increase the enforcement authority of the Division, which assists with the Sierra Club's mission. Ms. Feibelman lamented that the Division still needs more funding, staffing, and other resources to implement adequately its regulations.

40. Ms. Feibelman testified that she supports the proposed rules and this rulemaking proceeding.

41. NMELC proffered Julia Bernal on behalf of the Pueblo Action Alliance as a nontechnical witness. Ms. Bernal is the current director of Pueblo Action Alliance, a community organization that addresses environmental and social injustices that occur on ancestral tribal lands. The Pueblo Action Alliance is a woman and youth-led organization that addresses issues with the fossil fuel industries, federal land leasing programs, climate adaption and the economic impacts of extractive industries that desecrate cultural integrity.

42. Ms. Bernal testified that she now has an understanding of how "a typical fracking well works," including water usage and produced waste. Ms. Bernal further stated that produced water should be treated in a manner that holds the producers accountable for the consequences of such releases.

43. Ms. Bernal testified that she supports the proposed rules, but requested that, in the future, the Commission "engage in its 2020 Tribal Collaboration Act" with the various nations in New Mexico concerning future rulemaking.

44. NMELC proffered Norman Gaume as a technical witness. Mr. Gaume is a retired licensed professional water engineer. He possesses a Bachelor of Science in electrical engineering and a Master's of Science in civil engineering, both from New Mexico State University.

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45. Mr. Gaume detailed his professional background, which included thirty-seven (37) years of work that required a professional engineering license. Mr. Gaume's background includes water and wastewater facilities management, operations, maintenance, design, and construction, and water resources management, planning and administration. Mr. Gaume worked as the director of the New Mexico Interstate Stream Commission for six years, wherein he worked with stakeholders to ensure compliance with the 1987 United States Supreme Court decree that New Mexico never again would owe water to Texas *via* the Pecos River.

46. Mr. Gaume stated that he supports the proposed rules and this rulemaking.

47. Mr. Gaume opined that, absent the proposed rules, releases in New Mexico are not prohibited nor are they illegal.

48. Mr. Gaume stated that banning releases is an essential, but insufficient, step in avoiding releases.

49. Mr. Gaume testified that he believes the Division does not properly exercise its enforcement authority when it comes to releases.

50. Mr. Gaume testified he believes the Division's approach to regulation of releases is piecemeal, which is part of the overall problem.

51. Mr. Gaume requested that the Commission and Division provide him a regulatory plan so he and the public could begin a collaborative process of revising again the rules currently under revision.

52. Mr. Gaume asserted that, under the 1971 amendment to the New Mexico Constitution, the public has the right to a clean and safe environment. Mr. Gaume further stated that due to New Mexico's dry climate, the state's groundwater resources are especially at risk.

53. Mr. Gaume reiterated his support for the proposed rule changes and this rulemaking process.

54. Mr. Gaume also acknowledged that he has no professional experience with produced water in a professional capacity, nor had he any professional experience working with oil and gas facilities or operations. Mr. Gaume also acknowledged that he did not review any prior versions of the proposed rules, including rules that contain reporting requirements.

55. NMELC proffered Joseph Hernandez on behalf of NAVAEP as a non-technical witness. Mr. Hernandez is a member of the Zia Pueblo and lives west of Shiprock, New Mexico. He is the Diné energy organizer for the NAVA Education Project. This role requires him to engage effectively Navajo communities in renewable energy advocacy.

56. Mr. Hernandez testified that his community is very familiar with the impacts from oil and gas releases, referring to a tanker truck release on US 550 that threatened the health and lives of his community.

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57. Mr. Hernandez testified about a February 2019 release within the Counselor Chapter Borders that released fifty-five thousand (55,000) gallons of combined crude oil and produced water that ended up in the Escavada Wash that leads into Chaco National Monument.

58. Mr. Hernandez supports the proposed rule changes, but believes more needs to be done in terms of preventing releases.

59. NMELC proffered Joseph Zupan on behalf of Amigos Bravos as a technical witness. Mr. Zupan is the executive director of Amigos Bravos, a non-profit whose mission is to protect and restore the waters of New Mexico by restoring watershed health, holding polluters accountable, and building a water protection movement for the future. Prior to joining Amigos Bravos, Mr. Zupan worked as an environmental consultant with clients that included oil and gas exploration and production companies. Mr. Zupan possesses a Bachelor of Science degree from the Colorado School of Mines in chemical and petroleum refining engineering. Mr. Zupan currently holds professional engineering licenses in New Mexico and Colorado. Mr. Zupan's technical work included risk-based corrective action through calculation of risks posed by released contaminants into soil, surface water, and groundwater to develop cleanup standards that minimize risks to human health and the environment.

60. Mr. Zupan supports the proposed rule changes, which he sees as a very important step in protecting human health and the environment from the impacts of oilfield releases.

61. Deliberation and Action. The Commission began and completed deliberations regarding the proposed rule changes on June 10, 2021. The Commission reached a tentative decision on the proposed rule changes, and requested that Commission Counsel prepare a proposed order for its review and approval. At the meeting on July 8, 2021, the Commission reviewed the proposed rule changes and the proposed order, and adopted the proposed rule changes as provided in attached Exhibit A for the reasons set forth herein.

62. Reasons for Adopting Rule Changes. The Commission finds that the proposed rule changes are a reasonable implementation of the stated objectives of both the Division and WEG, and are supported by substantial evidence. The proposed rule changes appropriately amend 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC to ensure that Part 29 is consistent with the Oil and Gas Act. The Commission finds that the proposed rule changes, as modified, create a necessary and appropriately revised framework for the Division regarding unauthorized releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production, as well as suitable enforcement of such a prohibition on releases. The proposed rule changes, as modified, appropriately outline the jurisdiction of the Division with respect to the regulation of unauthorized releases of oil, gases, produced water, oil field waste, and other contaminants that occur during oil and gas development and production.

63. The Commission finds that the Division and WEG's proposed rule changes to 19.15.29.6 NMAC, with the agreement of NMOGA and IPANM, are a necessary clarification that the purpose and intent of 19.15.29 NMAC, titled "Releases," is to prohibit releases.

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64. The Commission finds that the Division and WEG's proposed rule change to 19.15.29.8 NMAC by adding a new subsection (A), with the agreement of NMOGA and IPANM, is necessary and make expressly clear that major and minor releases are prohibited. The Commission further finds that the references to 19.15.27 and 19.15.28 NMAC are appropriate based on the recent venting and flaring rulemaking, particularly because the proposed rule change to add subsection (A) to 19.15.29.8 NMAC aligns with the reporting scheme found in 19.15.27, 19.15.28, and 19.15.29 NMAC.

65. The Commission finds that the Division and WEG's proposed rule changes to 19.15.29.15 NMAC, as a whole and with the agreement of NMOGA and IPANM, are necessary to align 19.15.29.15 with 19.15.5 NMAC, titled "Enforcement and Compliance," thus bringing those sections into harmony. Further, the Commission finds that the proposed rule changes to 19.15.29.15 NMAC are necessary to ensure compliance with the proposed rule changes to 19.15.29.8(A) NMAC, and to preserve the Division's enforcement discretion.

66. The Commission generally finds that the Division and WEG's proposed rule changes to 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC provide a clear and unambiguous prohibition on major or minor releases and hereby adopts the Division and WEG's proposed rule changes as follows:

a. The Commission hereby accepts the proposed changes to 19.15.29.6 NMAC. In particular, the Commission accepts the addition of the added language "prohibit releases and," "procedures for," and the deletion of "procedures."

b. The Commission hereby accepts the proposed changes to 19.15.29.8 NMAC. In particular, the Commission accepts the addition of a new subsection (A), which contains the express prohibition on major and minor releases, with the exceptions of any releases permitted under 19.15.27 and 19.15.28 NMAC.

c. The Commission hereby accepts the proposed changes to 19.15.29.15 NMAC. In particular the Commission accepts the following:

    i. The correct placement of the phrase "pursuant to 19.15.5.10 NMAC" in subsection (A) of 19.15.29.15 NMAC.

    ii. The replacement of "an agreed compliance" with "a stipulated final" in subsection (B) of to 19.15.29.15 NMAC.

    iii. The replacement of "agreed compliance order or administrative compliance order" with "or final order" in subsection (C) of 19.15.29.15 NMAC.

    iv. The deletion of subsection (D) of 19.15.29.15 NMAC.

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THE COMMISSION CONCLUDES THAT:

1. The Commission has jurisdiction, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38, over the parties and subject matter of this case.

2. The Commission has legal authority, under the Oil and Gas Act, to enact the proposed rule changes.

3. The Commission provided due public notice and an opportunity for the public to provide comments regarding the proposed rule changes. The Commission held a public rulemaking hearing and provided a reasonable opportunity for all persons present or interested in the subject matter of the rulemaking hearing to provide testimony, evidence and exhibits.

4. All Commissioners were present at the public hearing. All Commissioners analyzed and considered all the evidence presented during the hearing, including the proposed rule changes submitted by the parties. The Commission deliberated at a public hearing on June 10, 2021 and adopted the proposed rule changes as stated above.

5. The Commission concludes that there is substantial evidence in the record to support the proposed rule changes and the Commission's revisions thereto, that the proposed rule changes are within the authority of the Commission under the Oil and Gas Act and are reasonable and further the goals of the Oil and Gas Act.

IT IS THEREFORE ORDERED THAT:

The proposed rule changes to 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC are hereby approved by the Commission. The adoption of the rule changes will be final upon the latter of (a) the action, or deemed action, of the Commission on a rehearing application filed pursuant to NMSA 1978, § 70-2-25, or (b) twenty (20) days from the date of this order if no rehearing application is filed. The rule changes shall not be filed with the state records administrator until this order adopting the rule changes is approved by the Commission; then the rule changes must be filed within fifteen (15) days after the adoption. If no rehearing is required by the Commission, this Order shall serve as the "concise explanatory statement" required by NMSA 1978, § 14-4-5.5 (2017).

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DONE at Santa Fe, New Mexico, on this 8th Day of July 2021.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Terry J Warnell

TERRY WARNELL, MEMBER

Gregory B. Bloom

GREGORY BLOOM, MEMBER

ADRIENNE SANDOVAL, M.E., CHAIR

SEAL

AMERICAN OVERSIGHT

NEW MEXICO OIL CONSERVATION COMMISSION

Notice of Rule Adoption

The New Mexico Oil Conservation Commission (Commission) hereby gives notice that it has adopted changes to Rule 19.15.29 NMAC in Case No. 21834. The rule changes were filed with the State Records Center on July 29, 2021. A copy of the rule changes along with Commission Order No. R-21674-C are available from Commission Clerk, Florene Davidson at florene.davidson@state.nm.us or can be viewed at the Oil Conservation Division's website at www.emnrd.nm.gov under the "Rules" link.

AMERICAN OVERSIGHT

From: Dickert, Catherine A (DEC) <Catherine.Dickert@dec.ny.gov>
Sent: Tuesday, March 29, 2022 4:30 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Tryon, Steve G <stephen_tryon@ios.doi.gov>; Feldgus, Steven H <steve_feldgus@ios.doi.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Murphy, Eileen (DEC) <eileen.murphy@dec.ny.gov>
Subject: NY Comments on Draft Initial Grant Guidance
Attachment(s): "NYS Comments IG Guidance.pdf"

Please see attached our comments on the draft Initial Grant guidance. Thank you very much.

Catherine

Catherine Dickert
Pronouns: She/Her/Hers
Director, Division of Mineral Resources

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March 29, 2022

Steven Feldgus
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U.S. Department of the Interior
1849 C Street NW
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Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of Interior
1849 C Street NW
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Dear Deputy Assistant Secretary Feldgus and Director Tryon,

On behalf of New York State Department of Environmental Conservation, I would like to thank you for the opportunity to comment on the Department of Interior's draft Initial Grant Guidance. In addition to the comments made separately by the Interstate Oil and Gas Compact Commission, of which New York is a member state, we would like to offer the following for your consideration.

Page 2 – "date of receipt of funds" We request more detail on how exactly the date of receipt of funds triggers the start of the 90-day timeframe for obligation of funds. How much time will DOI allow between the date of notification of initial grant award and the date when a recipient organization initiates its first drawdown of funds from ASAP?

Page 12 – VIII C – We request DOI change this text to read, "The Federal awarding agency may request documentation of work performed using this funding to ensure appropriate fiscal accountability and oversight. States will provide Federal awarding agency access to relevant documentation in state possession and facilitate Federal awarding agency access to project sites as may be agreed to by the private landowner." This change is necessary because New York has no authority to grant access to well plugging sites located on private property to federal employees.

We look forward to working together to address the issue of orphaned wells in New York State and appreciate your willingness to collaborate with the states to make this program a success.

Thank you,

Catherine Dickert
Director

NEW YORK STATE OF OPPORTUNITY | Department of Environmental Conservation

AMERICAN OVERSIGHT

From: Davidson, Florene, EMNRD <florene.davidson@state.nm.us>
Sent: Tuesday, May 03, 2022 4:06 PM EDT
To: A. Blair Dunn Esq. (abdunn@ablairdunn-esq.com) <abdunn@ablairdunn-esq.com>; Adam Rankin <AGRankin@hollandhart.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marks,Allison <amarks@slo.state.nm.us>; Shaw, Alysha <ashaw@slo.state.nm.us>; Amy N. Carl (acarl@targaresources.com) <acarl@targaresources.com>; Repka, Angie <angie.repka@exxonmobil.com>; Anna M. Williamson (awilliamson@cilawnm.com) <awilliamson@cilawnm.com>; abiernoff@slo.state.nm.us <abiernoff@slo.state.nm.us>; Balch (balch@prrc.nmt.edu) <balch@prrc.nmt.edu>; Ryan, Beth (LDZX) <Beth.Ryan@conocophillips.com>; Blake D. 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Subject: OCC Rulemaking Case No. 22719
Attachment(s): "OCC Application Rulemaking 3-22.pdf","Rulemaking Case 22719.pdf","Proposed Rule Changes in Case 22719.pdf"

Attached are the application, notice of hearing, and proposed rule changes in rulemaking Case 22719 to be heard on June 3, 2022.

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STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION COMMISSION

APPLICATION OF OIL CONSERVATION DIVISION TO AMEND RULES 19.15.2 AND 19.15.7 NMAC

CASE NO._22719

APPLICATION FOR RULEMAKING

The New Mexico Energy, Minerals and Natural Resources Department Oil Conservation Division ("OCD") hereby applies to the Oil Conservation Commission ("Commission") to amend, after notice and public hearing, Commission Rules 19.15.2 NMAC ("General Provisions for Oil and Gas Operations") and 19.15.7 NMAC ("Forms and Reports"). In compliance with 19.15.3.8(A) NMAC, OCD provides the following information:

(1) The proposed rule changes are intended to align the Commission's rules with the current and proposed procedures and practices of the OCD, particularly those related to the electronic submission of documents to the OCD and updates to provisions concerning OCD's structure and the potential for future changes in response to operational priorities.

(2) The proposed rule changes are attached as Exhibit 1.

(3) The applicant is the Energy, Minerals and Natural Resources Department Oil Conservation Division.

(4) The applicant's address is:

1220 South St. Francis Drive
Santa Fe NM 87505
Attn: Jesse Tremaine
Jesse.tremaine@state.nm.us

(5) A proposed form of legal notice is attached as Exhibit 2.

OCD requests that the Commission determine to hold a hearing on the proposed rule changes and, if possible, schedule a public hearing for the Commission meeting on June 9, 2022.

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Respectfully submitted,

/s/ Jesse Tremaine

Jesse Tremaine
Energy, Minerals and Natural Resources Department
1220 S. St. Francis Drive
Santa Fe, NM 87505
Jesse.tremaine@state.nm.us

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Exhibit 1:
Proposed Rule Changes (March 30, 2022 Draft)

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 2 GENERAL PROVISIONS FOR OIL AND GAS OPERATIONS

19.15.2.7 DEFINITIONS: These definitions apply to 19.15.2 NMAC through 19.15.39 NMAC.

A. Definitions beginning with the letter "A".

(4) **"Act" or "Oil and Gas Act"** means chapter 70, article 2 NMSA 1978, as it may be modified or amended.

C. Definitions beginning with the letter "C".

(3) **"Certified mail" or "certified mail, return receipt requested"** means United States Postal Service Certified Mail or equivalent service that provides tracking and signature receipt, including Federal Express, United Parcel Service, or similar courier services.

R. Definitions beginning with the letter "R".

(7) **"Rules"** means the rules enacted pursuant to the Oil and Gas Act, 19.15.2 to 19.15.39 NMAC, as they may be modified or amended.

19.15.2.10 ~~GENERAL WAIVERS AND EXCEPTIONS: [RESERVED]~~ ONLINE APPLICATION AND SUBMITTALS:

A. The division shall establish online application and submittal procedures on the division's website for the electronic filing of all forms, applications and other written documents and information with the division.

B. All applications that require the payment of a fee, as provided in NMSA 1978, §70-2-39, shall include the fee payment with the application.

C. A person whose filing is made untimely due to a technical failure of the division's web-based online application process may request an extension of time. Technical failures not originating with the division's process, such as problems with the filer's equipment, software, or telecommunications facility will not constitute a basis for relief.

[repeal current 19.15.2.12 and replace with new section]

~~19.15.2.12 NUMBERING OF DIVISION ORDERS:~~

~~A. Division orders entered after January 1, 1950, pertaining to the allocation of production of oil and gas shall be prefixed with the letter "A" or "AG" in the case of gas pools and shall be numbered consecutively, commencing with the number one, *i.e.*, the first allocation order issued after January 1, 1950, is No. A-1, the next A-2, etc. or AG-1 and AG-2.~~

~~B. Other division orders entered after January 1, 1950, shall be prefixed with the letter "R" and shall be numbered consecutively, commencing with the number 1, *i.e.*, the first such order issued after January 1, 1950, is No. R-1, the next R-2, etc.~~

19.15.2.12 FILING AND NOTIFICATION: All requirements in the rules:

A. to file a form or application with the division or commission, including documents required to be filed with district offices or the Santa Fe office, shall be accomplished by using the applicable online process on the division's website,

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B. to otherwise notify, advise, contact, or report to the division, including to any unit of the division (such as a bureau or office) or any division official (such as the director or a bureau chief), may be accomplished by electronic mail or as otherwise provided on the division's website. The division shall provide contact instructions on the division's website, and

C. to file an original financial assurance instrument with the division as provided in 19.15.8 NMAC shall require delivery to the Santa Fe office unless otherwise directed by the division.

19.15.2.13 COMPUTATION OF TIME: In computing a period of time ~~19.15.2 NMAC through 19.15.39 NMAC prescribes~~ prescribed by the Oil and Gas Act, the rules or an order, the division and commission shall comply with the Uniform Statute and Rule Construction Act, NMSA 1978, Section 12-2A-7. ~~day from which the period of time begins to run shall not be included. The last calendar day of the time period shall be included in the computation unless it is a Saturday, Sunday or a day on which state agencies observe a legal holiday. In such case, the period of time runs to the close of business on the next regular workday. If the period is less than 11 days, a Saturday, Sunday or legal holiday is excluded from the computation.~~

19.15.2.16 DUTIES AND AUTHORITY OF DIVISION~~FIELD~~ PERSONNEL: Division personnel ~~Oil and gas inspectors, deputy oil and gas inspectors, scouts, engineers and geologists the division duly appoints~~ have the authority and duty to enforce division rules. Upon a showing by an operator that changes are necessary to avoid waste or protect public health or the environment, division personnel may allow minor deviations from approved field operational plans such as drilling and plugging plans. The operator shall file a Form C-103 as a notice of intention showing the change of plans within two business days of the approval. ~~Oil and gas inspectors and their deputies may allow minor deviations from 19.15.2 NMAC through 19.15.39 NMAC's requirements as to field practices where, by so doing, waste is prevented or burdensome delay or expense on the part of the operator is avoided.~~

[repeal current 19.15.2.12 and replace with new section]

~~**19.15.2.17 DISTRICT OFFICES:**~~

~~**A.** To expedite administration of the division's work and its rules' enforcement, the state is divided into four districts as follows:~~

~~**(1)** district 1 consisting of Lea, Roosevelt and Curry counties and that portion of Chaves county lying east of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Hobbs;~~

~~**(2)** district 2 consisting of Eddy, Otero, Dona Ana, Luna, Hidalgo, Grant, Sierra, Lincoln and De Baca counties and that portion of Chaves county lying west of the north-south line dividing ranges 29 and 30 east, NMPM with the district office in Artesia;~~

~~**(3)** district 3 consisting of San Juan, Rio Arriba, McKinley and Sandoval counties with the district office in Aztec; and~~

~~**(4)** district 4 consisting of the remainder of state with the district office in Santa Fe.~~

~~**B.** Each district office shall be under the charge of a district supervisor, an oil and gas inspector or a deputy oil and gas inspector, unless otherwise specifically required.~~

~~**C.** The district office of the district in which the affected land is located shall take care of matters pertaining to the division.~~

19.15.2.17 ORGANIZATIONAL UNITS: When necessary to assist in the administration of the Oil and Gas Act, the director may divide the state into districts or other organizational units as appropriate. Upon establishment of, or revisions to, such units, the director shall provide or amend a map on the division's website with the boundaries of the units. Contact information for the units, including any assigned personnel, shall be maintained on the division's website.

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TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 15 OIL AND GAS
PART 7 FORMS AND REPORTS

19.15.7.8 GENERAL:

A. Development of Forms and Applications~~Where to file reports.~~ The division shall develop standard forms and applications for the purposes required by the commission in any rule. The division may also develop online forms, applications and other submittal processes to provide standard mechanisms for any other required notices, requests, applications, or reports. All submittal processes for forms and applications shall be available on the division's website. ~~Unless otherwise specifically provided for in a division rule or order, the operator shall file forms and reports 19.15.7 NMAC requires with the appropriate division district office as provided in 19.15.2.17 NMAC and 19.15.7.10 NMAC.~~

B. Additional data. 19.15.7 NMAC does not limit or restrict the division's authority to require the furnishing of additional reports, data or other information relative to the production, transportation, storing, refining, processing or handling of oil, gas or products in the state as may appear to the division to be necessary or desirable, either generally or specifically, for compliance with or implementation of the Oil and Gas Act ~~the prevention of waste and the conservation of the state's natural resources~~.

C. Books and records. A person subject to the Oil and Gas Act ~~producer, injector, transporter, storer, refiner, gasoline or extraction plant operator, treating plant operator and initial purchaser of gas within the state~~ shall make and keep appropriate books and records for a period of not less than five years, covering operations in New Mexico, in order to make and substantiate the reports the division requires.

D. Written notices, requests, permits and reports. A person required to file notices, requests, permits or reports shall use the ~~forms listed~~ division's website ~~below for the purpose shown~~ in accordance with the instructions provided on the website or required ~~printed~~ on a~~the~~ form ~~and the~~or in any rule covering a~~the~~ form's use or special order pertaining to its use.~~:~~ The following list of forms is intended for informational purposes and is not intended to limit the division's authority to establish new forms or revise existing forms:

(1) form C-101 - application for permit to drill, deepen or plug back;
(2) form C-102 - well location and acreage dedication plat;
(3) form C-103 - sundry notices and reports on wells;
(4) form C-104 - request for allowable and authorization to transport oil and gas;
(5) form C-105 - well completion or recompletion report and log;
(6) form C-106 - notice of intention to utilize automatic custody transfer equipment;
(7) form C-107 - application for multiple completion;
(8) form C-107-A - application for downhole commingling;
(9) form C-107-B - application for surface commingling (diverse ownership);
(10) form C-108 - application to dispose of [salt] produced water by injection into a porous formation;
(11) form C-109 - application for discovery allowable and creation of a new pool;
(12) form C-111 - gas transporter's monthly report (sheet 1 and sheet 2);
(13) form C-112 - transporter's and storer's monthly report;
(14) form C-112-A - receipts continuation sheet;

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(15) form C-112-B - deliveries continuation sheet;
(16) form C-113 - refiner's monthly report (sheet 1 and sheet 2);
(17) form C-115 - operator's monthly report;
(18) form C-115B - volume of vented and flared natural gas;
(19) form C-115-EDP - operator's monthly report (electronic data processing);
(20) form C-116 - gas-oil ratio tests;
(21) form C-117-A - tank cleaning, sediment oil removal, transportation of miscellaneous hydrocarbons and disposal permit;
(22) form C-117-B - monthly sediment oil disposal statement;
(23) form C-118 - treating plant operator's monthly report (sheet 1 and sheet 2);
(24) form C-120-A - monthly water disposal report;
(25) form C-121 - oil purchaser's nomination;
(26) form C-121-A - purchaser's gas nomination;
(27) form C-122 - multi-point and one point back pressure test for gas wells;
(28) form C-122-A - gas well test data sheet-San Juan basin (initial deliverability test, blue paper; annual deliverability test, white);
(29) form C-122-B - initial potential test data sheet;
(30) form C-122-C - deliverability test report;
(31) form C-122-D - worksheet for calculation of static column wellhead pressure (P_w);
(32) form C-122-E - worksheet for stepwise calculation of (surface) (subsurface) pressure (P_c and P_w);
(33) form C-122-F - worksheet for calculation of wellhead pressures (P_c or P_w) from known bottom hole pressure (P_f or P_s);
(34) form C-122-G - worksheet for calculation of static column pressure at gas liquid interface;
(35) form C-123 - request for the creation of a new pool;
(36) form C-124 - reservoir pressure report;
(37) form C-125 - gas well shut-in pressure report;
(38) form C-126 - permit to transport recovered load oil;
(39) form C-127 - request for allowable change;
(40) form C-129 - report of vented or flared natural gas;
(41) form C-130 - notice of disconnection;
(42) form C-131-A - monthly gas storage report;
(43) form C-131-B - annual LPG storage report;
(44) form C-133 - authorization to move produced water exhibit "A";
(45) form C-134 - application for exception to division order R-8952, 19.15.18.18 NMAC or 19.15.36 NMAC;
(46) form C-135 - gas well connection, reconnection or disconnection notice;
(47) form C-136 - application for approval to use an alternate gas measurement method;
(48) form C-137 - application for waste management facility;
(49) form C-137-EZ - registration/final closure report for small landfarm;
(50) form C-138 - request for approval to accept solid waste;
(51) form C-139 - application for qualification of production restoration project and certification of approval;

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(52) form C-140 - application for qualification of well workover project and certification of approval;

(53) form C-141 - release notification and corrective action;

(54) form C-144 - pit, closed-loop system, below-grade tank or proposed alternative method permit or closure plan application;

(55) form C-145 - change of operator;

(56) form C-146 - change of operator name;

(57) form C-147 - permit or registration for recycling and re-use of produced water, drilling fluids and liquid oil field waste; and

(58) form C-148 - reporting for recycling and re-use of produced water, drilling fluids and liquid oil field waste.

[repeal 19.15.7.9 and 19.15.7.10]

~~**19.15.7.9 FORMS UPON REQUEST:** The division's forms for written notices, requests and reports it requires are available on the division's website. The division shall furnish paper copies upon request.~~

~~**19.15.7.10 WHERE TO FILE REPORTS AND FORMS:** A person required to file a report or form shall file the report or form with the division in the number and at the time specified on the form or report or by the applicable section in 19.15.7 NMAC. An operator shall file plugging bonds directly with the division's Santa Fe office.~~

[repeal 19.15.7.11 and 19.15.7.37 and replace with new 19.15.7.9]

19.15.7.9 FORMS REQUIRED ON FEDERAL LAND OR MINERALS:

A. For wells on federal lands, accessing federal minerals or lands or minerals owned by a native American nation, tribe, pueblo, or individual allottee in New Mexico, an operator shall file the applicable federal forms with the BLM (as may be updated from time to time by the BLM) in lieu of filing the following forms with the division:

(1) applications for permit to drill, deepen or plug back (C-101),

(2) sundry notices and reports on wells (C-103), and

(3) well completion or recompletion reports and logs (C-105).

B. For geophysical logs, electrical logs or other testing results obtained from a well on federal lands or minerals and required for the Form C-105, the operator shall submit an electronic copy of the results to the division using the online submittal process.

C. All such forms filed with the BLM involving federal lands or minerals are subject to division approval in the same manner and to the same extent as the corresponding division forms. All forms approved or processed by the BLM for wells on federal lands or accessing federal minerals shall be filed with division for approval using the online application process on the division's website no later than the time period in the rules for the equivalent division form or five business days after the BLM approves or processes if no deadline is provided, except:

(1) For subsequent reports of work performed that are first reported to the BLM on a C-103 or a C-105 equivalent, if within thirty days of submittal, the BLM has not approved or processed such submittal the operator shall within 10 days file the State equivalent form with the division; and

(2) Once the BLM processes or approves the federal submittal, the operator shall file within ten business days the submittal approved or processed by the BLM.

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D. All such forms filed exclusively for lands or minerals owned by a native American nation, tribe, pueblo or individual allottee shall be filed with the division using the online application process on the division's website as soon as is practicable after federal approval or processing. Such forms involving exclusively lands or minerals that a native American nation, tribe, pueblo or individually allottee owns are not subject to division review or approval unless such review or approval is authorized by a written agreement between the native American nation, tribe, pueblo and the division.

E. For other reports on wells on federal land or minerals, the operators shall file the applicable state forms with the division, including forms C-104 and C-115.

~~**19.15.7.11 UNITED STATES GOVERNMENT LEASES:** For wells located on land that the United States or a native American nation, tribe or pueblo owns, an operator shall file applications for permit to drill, deepen or plug back, BLM form no. 3160-3; sundry notices and reports on wells, BLM form no. 3160-5; and well completion or recompletion report and log, BLM form no. 3160-4 with the BLM in lieu of filing the corresponding division forms with the division. All such forms are, however, subject to division approval in the same manner and to the same extent as the corresponding division forms.~~

~~**19.15.7.37 FORMS REQUIRED ON FEDERAL LAND:**~~

~~**A.** An operator shall use federal forms in lieu of state forms when filing application for permit to drill, deepen or plug back and sundry notices and reports on wells and well completion or recompletion report and log for wells on federal lands in New Mexico. However, the operator shall submit two extra copies of each of the forms to the BLM, which, upon approval, will transmit the forms to the division. An operator of a well on federal land shall use the following BLM forms in lieu of division forms:~~

~~BLM Form No.~~	~~Title of Form (Same for both agencies)~~	~~Form No.~~
~~3160-3 (Nov. 1993)~~	~~Application for Permit to Drill, Deepen or Plug Back~~	~~C-101~~
~~3160-5 (Nov. 1983)~~	~~Sundry Notices and Reports on Wells~~	~~C-103~~
~~3160-4 (Nov. 1983)~~	~~Well Completion or Recompletion Report and Log~~	~~C-105~~

~~**B.** The above forms as the BLM may revise are the only forms that an operator may file in place of division forms.~~

~~**C.** After a well is completed and ready for pipeline connection, the operator shall file form C-104 along with a copy of form C-105 or BLM form No. 3160-4, whichever is applicable, with the division on wells drilled in the state, regardless of land status. Further, the operator shall file production reports using division forms; the division will not accept federal forms for reporting production.~~

~~**D.** An operator's failure to comply with 19.15.7.36 NMAC shall result in the division's cancellation of form C-104 for the affected well or wells.~~

19.15.7.16 WELL COMPLETION OR RECOMPLETION REPORT AND LOG (FORM C-105):

A. Within 45 days following the completion or recompletion of a well, the operator shall file form C-105 with the ~~appropriate~~ division ~~district office~~ accompanied by a summary of special tests conducted on the well, including drill stem tests. In addition, the operator shall file a copy of electrical and radio-activity logs run on the well with form C-105. If the division does not receive form C-105 with attached logs and summaries within the specified 45-day period, the division shall withhold the allowable for the well or suspend injection authority, as appropriate, until the operator has complied with 19.15.7.16 NMAC.

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B. In the case of a dry hole, a complete record of the well on form C-105 with the attachments listed in Subsection A of 19.15.7.16 NMAC shall accompany the notice of intention to plug the well, unless previously filed. The division shall not approve the plugging report or release the bond the operator has complied with 19.15.7.16 NMAC.

C. The division shall not keep form C-105 and accompanying attachments confidential unless the well's owner requests in writing that the division keep it confidential. Upon such request, the division shall keep these data confidential for 90 days from the date of the well's completion, provided, however, that the report, logs and other attached data may, when pertinent, be introduced in a public hearing before division examiners, the commission or in a court of law, regardless of the request that they be kept confidential.

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STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

NOTICE OF PUBLIC HEARING FOR PROPOSED RULEMAKING

The New Mexico Oil Conservation Commission (Commission) gives notice of the following public hearing to be held commencing at 9:00 a.m. on June 3, 2022:

Case No. 22719: **APPLICATION OF OIL CONSERVATION DIVISION TO AMEND RULES 19.15.2 AND 19.15.7 NMAC**

Summary of Proposed Rule. The New Mexico Oil Conservation Division (OCD) proposes to amend 19.15.2 and 19.15.7 NMAC to make changes concerning procedural matters including the electronic submission of documents. The proposed rule changes include:

19.15.2 NMAC (General Provisions). OCD proposes to amend 19.15.2 to create an online process for the submittal of documents on the OCD's website and to require the filing of forms and other documents through the online portal. Also, OCD proposes to eliminate the specific locations of district offices and specific boundaries of districts within the rules and instead recognize the authority of the OCD Director to create organizational units and require information on such units to be placed on the website.

19.15.7 NMAC (Forms and Reports). OCD proposes to amend 19.15.7 to provide for the creation and filing of electronic forms and documents and to clarify the filing requirements for oil and gas operators working on federal and tribal lands.

Purpose of Proposed Rule. The proposed rule changes are intended to align the Commission's rules with the current and proposed procedures and practices of the OCD, particularly those related to the electronic submission of documents to the OCD and updates to provisions concerning OCD's structure and the potential for future changes in response to operational priorities.

Legal Authority. The proposed rule changes are authorized by the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically Section 70-2-6 (authorizing the OCC to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Section 70-2-11 (authorizing the OCC to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), and Section 70-2-12 (enumerating the powers of the OCC and OCD). The public hearing is governed by the OCC's rule on rulemaking proceedings, 19.15.3 NMAC.

Availability of proposed rules. The full text of the proposed rule changes is available on the OCD Rules page at the Oil Conservation Division's website at http://www.emnrd.nm.gov/ocd, or by contacting the Commission Clerk, Florene Davidson at florene.davidson@state.nm.us.

Public Hearing. The Commission will conduct a public hearing on the proposed rule changes that will be held online and by telephone on June 3, 2022, at 9:00 a.m., and will be continued to the following day(s) if not completed. The public hearing will be transcribed and recorded. To access the public hearing on-line via the Webex platform and by telephone:

https://nmemnrd.webex.com/nmemnrd/onstage/g.php?MTID=e0e0fcc48144a18f367f3ee30741a7c9b

To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code.

United States Toll

+1-408-418-9388

Show all global call-in numbers

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Access code: 2497 646 1072

Written comments. Any person may submit written comments on the proposed rule changes by mail or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, or e-mailed to florene.davidson@state.nm.us. All written comments must be received by the Commission Clerk no later than 9:00 A.M. on June 3, 2022, unless the Commission or the Commission Chair extends this deadline.

Proposed Modifications, Technical Testimony, and Cross Examination. A person who intends to propose a modification to the proposed rules, to present technical testimony at the public hearing, or to cross-examine witnesses at the public hearing must file a Pre-Hearing Statement conforming to the requirements of 19.15.3.11(B) NMAC, no later than May 20, 2022, at 5:00 p.m. The Pre-Hearing Statement must be filed by mail, e-mail, or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. A person who presents technical testimony at the public hearing will be subject to cross-examination by the members of the OCC, the OCC's counsel, and other persons who filed Pre-Hearing Statements.

Oral Comments. A person who did not file a Pre-Hearing Statement may present non-technical testimony or make an unsworn statement at the public hearing. A person who wants to present non-technical testimony or make an unsworn statement at the public hearing must inform the commission. A person who presents non-technical testimony will be subject to cross-examination by the members of the Commission, the Commission's counsel, and other persons who filed Pre-Hearing Statements. A person may offer exhibits at the public hearing if the exhibits are relevant to the proposed rules and the person files the original exhibit and five copies conforming to the requirements of 19.15.3.12(C) NMAC prior the end of the public hearing. A person may file exhibits by mail, email, or delivery to the Commission Clerk, Florene Davidson, 3rd Floor, Wendell Chino Building, 1220 South St. Francis Drive, Santa Fe, New Mexico 87505, florene.davidson@state.nm.us. Exhibits must be submitted by June 1, 2022, at 5:00 p.m.

Persons with Disabilities. A person with a disability who needs a reader, amplifier, qualified sign language interpreter, or other form of auxiliary aid or service, such as a summary or other accessible form of document, in order to attend or participate in the public hearing, must contact the Commission Clerk, Florene Davidson, at (505) 476-3458 or florene.davidson@state.nm.us, or through the New Mexico Relay Network at 1-800-659-1779, no later than May 18, 2022.

Technical Information. There is no technical information for the proposed rule changes.

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Subject: OCD CoP Meeting
Location: Microsoft Teams Meeting

Start: Wednesday, November 10, 2021 2:00 PM EST
End: Wednesday, November 10, 2021 3:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Matt Lepore <matt.lepore@insightenergylaw.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Salazar, Louis C <Louis.C.Salazar@conocophillips.com>; Gibson, Kari S <Kari.Gibson@conocophillips.com>

Link for those who are virtual

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 505-312-4308,,21818401# United States, Albuquerque
Phone Conference ID: 218 184 01#
Find a local number | Reset PIN

Learn More | Meeting options

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State of New Mexico
Energy, Minerals and Natural Resources Department

Michelle Lujan Grisham
Governor

Sarah Cottrell Propst
Cabinet Secretary

Todd Leahy, PhD, JD
Deputy Cabinet Secretary

May 13, 2022

United States Department of the Interior
1849 C St., NW
Washington, DC 20240
Submitted via email: orphanedwells@ios.doi.gov
Re: State of New Mexico Application for Initial Grant Funding for Orphan Well Plugging Under the Infrastructure Investment and Jobs Act

Secretary Haaland,

Please accept this application for initial grant funding from the New Mexico Energy, Minerals and Natural Resources Department (EMNRD), Oil Conservation Division (OCD) pursuant to Section 40601(c)(3) of the Infrastructure Investment and Jobs Act (IIJA) to address orphan oil and gas well identification, plugging, site remediation, and restoration on state trust, private and split estate lands in the State of New Mexico.

EMNRD requests OCD be provided with the maximum allowable Large-Scale Initial grant amount of twenty-five million dollars ($25,000,000) which will be used almost entirely on third party contractual obligations. These funds will be incorporated into OCD's existing well plugging program, which has successfully addressed orphan well issue for many years; however, its aggregate impact in terms of number of wells plugged per year and sites remediated has been limited by available funding. The funding made available by the initial grant and any future formula grants will enable the OCD to greatly expand and enhance its well plugging and site remediation efforts.

OCD's regulations already establish requirements for the identification of orphan wells, their plugging, and the remediation of contaminated soils and groundwater, and minimum criteria for surface reclamation. These existent regulations meet or exceed those required by the IIJA and existing federal plugging and remediation standards applicable on federal lands under Bureau of Land Management (BLM) rules. This is evidenced by the fact that OCD already does plugging work for the BLM on federal lands under an existing grant agreement. OCD is also actively working to identify tools that will enable it to develop a measurement and tracking system to demonstrate a reduction in gaseous emissions associated with its plugging activities. These efforts are consistent with the recommendations in the Department's initial guidance.

OCD anticipates being able to fully use grants funds within the prescribed time period, but if it does not, any unobligated funds will be reimbursed to the Department of the

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Interior. EMNRD believes this application contains all the required elements discussed in the application guidance. Completed federal forms for assistance, budget information and justification, lobbying and contact information, along with an executed certification are provided in the multiple attachments to this letter. A narrative response to the additional recommended application elements is also included.

EMNRD acknowledges the Davis-Bacon Act requirements for this award and confirms applicable labor rates will not be less than those prevailing on similar projects in that locality. EMNRD is not aware of any actual or potential conflicts-of-interest at this time.

EMNRD appreciates the opportunity provided to it by this program. EMNRD expects to put this initial grant along with any subsequent formula and performance grants to beneficial use in the coming years. Thank you.

Respectfully,

Todd Leahy, PhD, JD
Deputy Secretary

Attachment A – Form SF-424v4 Application for Federal Assistance
Attachment B – Form 424A Budget Information for Non-Construction Programs
Attachment C – Form SF-LLL Disclosure of Lobbying Activities (OMB Form 4040-0013)
Attachment D – OMB Form 4040-0010 Key Contacts
Attachment E – Detailed Budget Proposal/Justification
Attachment F – OMB Form 4040-0019 Project Abstract Summary
Attachment G – Narrative of Recommended Application Elements
Attachment H – State Certification for Large-Scale Initial grant

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Attachment A – Form SF-424v4 Application for Federal Assistance

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OMB Number: 4040-0004
Expiration Date: 12/31/2022

Application for Federal Assistance SF-424

* 1. Type of Submission:	* 2. Type of Application:	* If Revision, select appropriate letter(s):
☐ Preapplication	☒ New	
☒ Application	☐ Continuation	* Other (Specify):
☐ Changed/Corrected Application	☐ Revision	

* 3. Date Received:	4. Applicant Identifier:
05/13/2022	

5a. Federal Entity Identifier:	5b. Federal Award Identifier:

State Use Only:

6. Date Received by State:	7. State Application Identifier:

8. APPLICANT INFORMATION:

* a. Legal Name:	NM ENERGY, MINERALS & NATURAL RESOURCES DEPARTMENT
* b. Employer/Taxpayer Identification Number (EIN/TIN):	85-600565
* c. UEI:	MJKLQGKGWHL9

d. Address:

* Street1:	1220 South St. Francis Drive
Street2:	
* City:	Santa Fe
County/Parish:	
* State:	NM: New Mexico
Province:	
* Country:	USA: UNITED STATES
* Zip / Postal Code:	87505-8214

e. Organizational Unit:

Department Name:	Division Name:
Energy, Minerals & Natural Res	Oil Conservation

f. Name and contact information of person to be contacted on matters involving this application:

Prefix:	Mr.	* First Name:	Jim
Middle Name:			
* Last Name:	Griswold		
Suffix:			

Title:	Projects Coordinator
Organizational Affiliation:	NM ENERGY, MINERALS & NATURAL RESOURCES DEPARTMENT
* Telephone Number:	505-660-1067
Fax Number:	
* Email:	jim.griswold@state.nm.us

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Application for Federal Assistance SF-424

*** 9. Type of Applicant 1: Select Applicant Type:**

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

* Other (specify):

*** 10. Name of Federal Agency:**

Department of the Interior

11. Catalog of Federal Domestic Assistance Number:

CFDA Title:

*** 12. Funding Opportunity Number:**

D-AQD-FA-22-003

* Title:

Sec. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

Add Attachment | Delete Attachment | View Attachment

*** 15. Descriptive Title of Applicant's Project:**

Orphan well site plugging, remediation and restoration

Attach supporting documents as specified in agency instructions.

Add Attachments | Delete Attachments | View Attachments

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Application for Federal Assistance SF-424

16. Congressional Districts Of:

* a. Applicant: NM-003 * b. Program/Project: NM-all

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment | Delete Attachment | View Attachment

17. Proposed Project:

* a. Start Date: 07/01/2022 * b. End Date: 06/30/2023

18. Estimated Funding ($):

* a. Federal	25,000,000.00
* b. Applicant	0.00
* c. State	0.00
* d. Local	0.00
* e. Other	0.00
* f. Program Income	0.00
* g. TOTAL	25,000,000.00

*** 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

☐ a. This application was made available to the State under the Executive Order 12372 Process for review on .

☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.

☒ c. Program is not covered by E.O. 12372.

*** 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

☐ Yes ☒ No

If "Yes", provide explanation and attach

Add Attachment | Delete Attachment | View Attachment

21. *By signing this application, I certify (1) to the statements contained in the list of certifications and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix:	Mr.
* First Name:	Todd
Middle Name:	
* Last Name:	Leahy
Suffix:	PhD, JD
* Title:	Deputy Cabinet Secretary, NM EMNRD
* Telephone Number:	505-476-3200
Fax Number:	
* Email:	todd.leahy@state.nm.us
* Signature of Authorized Representative:	
* Date Signed:	5/10/22

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Attachment B – Form 424A Budget Information for Non-Construction Programs

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BUDGET INFORMATION - Non-Construction Programs

OMB Number: 4040-0006
Expiration Date: 02/28/2022

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. SEC. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.		$	$	$ 25,000,000.00	$	$ 25,000,000.00
2.						
3.						
4.						
5. Totals		$	$	$ 25,000,000.00	$	$ 25,000,000.00

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SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
	SEC. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.				
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual	25,000,000.00				25,000,000.00
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a-6h)	25,000,000.00				$ 25,000,000.00
j. Indirect Charges					$
k. TOTALS (sum of 6i and 6j)	$ 25,000,000.00	$	$	$	$ 25,000,000.00
7. Program Income	$ 25,000,000.00	$	$	$	$ 25,000,000.00

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NM-EMNRD-22-0512-B-001320

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SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e)TOTALS
8. SEC. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.	$	$	$	$
9.				
10.				
11.				
12. TOTAL (sum of lines 8-11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$ 25,000,000.00	$ 6,250,000.00	$ 6,250,000.00	$ 6,250,000.00	$ 6,250,000.00
14. Non-Federal	$				
15. TOTAL (sum of lines 13 and 14)	$ 25,000,000.00	$ 6,250,000.00	$ 6,250,000.00	$ 6,250,000.00	$ 6,250,000.00

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (YEARS) (b)First	(c) Second	(d) Third	(e) Fourth
16. SEC. 40601. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.	$ 25,000,000.00	$	$	$
17.				
18.				
19.				
20. TOTAL (sum of lines 16 - 19)	$ 25,000,000.00	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges: $25,000,000 in contracts to service providers.

22. Indirect Charges: $0

23. Remarks:

NM-EMNRD-22-0512-B-001321

Attachment C – Form SF-LLL Disclosure of Lobbying Activities
(OMB Form 4040-0013)

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DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C.1352

OMB Number: 4040-0013
Expiration Date: 02/28/2022

1. * Type of Federal Action:
- [ ] a. contract
- [x] b. grant
- [ ] c. cooperative agreement
- [ ] d. loan
- [ ] e. loan guarantee
- [ ] f. loan insurance

2. * Status of Federal Action:
- [ ] a. bid/offer/application
- [x] b. initial award
- [ ] c. post-award

3. * Report Type:
- [x] a. initial filing
- [ ] b. material change

4. Name and Address of Reporting Entity:

[x] Prime [ ] SubAwardee

*Name: NM Energy, Minerals & Natural Resources Dept.

*Street 1: 1220 St. Francis Drive Street 2:

*City: Santa Fe State: NM: New Mexico Zip: 87505

Congressional District, if known: NM 003

5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime:

6. * Federal Department/Agency:
Department of the Interior

7. * Federal Program Name/Description:
Orphaned Well Site Plugging, Remediation, and Restoration

CFDA Number, if applicable:

8. Federal Action Number, if known:

9. Award Amount, if known:
$ 25,000,000.00

10. a. Name and Address of Lobbying Registrant:

Prefix: *First Name: Not Applicable Middle Name:

*Last Name: Not Applicable Suffix:

*Street 1: Street 2:

*City: State: Zip:

b. Individual Performing Services (including address if different from No. 10a)

Prefix: *First Name: Not Applicable Middle Name:

*Last Name: Not Applicable Suffix:

*Street 1: Street 2:

*City: State: Zip:

11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when the transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

*Signature: [signature]

*Name: Prefix: *First Name: Todd Middle Name:

*Last Name: [illegible] Suffix: PhD

Title: Cabinet Secretary or Designee Telephone No.: 505-476-3200 Date: 5/6/22

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Attachment D – OMB Form 4040-0010 Key Contacts

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OMB Number: 4040-0010
Expiration Date: 12/31/2022

Key Contacts Form

*** Applicant Organization Name:**
New Mexico Energy, Minerals and Natural Resources Department

Enter the individual's role on the project (e.g., project manager, fiscal contact).

*** Contact 1 Project Role:** Project Coordinator

Prefix:	Mr.
* First Name:	Jim
Middle Name:	
* Last Name:	Griswold
Suffix:	
Title:	

Organizational Affiliation:
Oil Conservation Division

* Street1:	5200 Oakland Ave. NE, Suite A
Street2:	
* City:	Albuquerque
County:	Bernalillo
* State:	New Mexico
Province:	
* Country:	USA: UNITED STATES
* Zip / Postal Code:	87113
* Telephone Number:	(505) 660-1067
Fax:	
* Email:	jim.griswold@state.nm.us

Next Person

AMERICAN OVERSIGHT

OMB Number: 4040-0010
Expiration Date: 12/31/2022

Key Contacts Form

* Applicant Organization Name:
New Mexico Energy, Minerals and Natural Resources Department

Enter the individual's role on the project (e.g., project manager, fiscal contact).

* Contact 1 Project Role: Division Director

Prefix: Ms.

* First Name: Adrienne

Middle Name:

* Last Name: Sandoval

Suffix:

Title: Division Director

Organizational Affiliation:
Oil Conservation Division

* Street1: 1220 South St. Francis Drive

Street2:

* City: Santa Fe

County: Santa Fe

* State: New Mexico

Province:

* Country: USA: UNITED STATES

* Zip / Postal Code: 87505

* Telephone Number: (575) 703-3842 or (575) 241-7063

Fax:

* Email: adrienne.sandoval@state.nm.us

Next Person

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Attachment E – Detailed Budget Proposal/Justification

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New Mexico Oil Conservation Division Initial grant Budget Proposal

This budget proposal covers New Mexico's state Fiscal Year 2023 (July 1, 2022 – June 30, 2023) for the plugging of orphan wells, the environmental assessment of well pads and facilities, along with surface restoration. We are assuming the grant award and expenditure period for the initial grant will run roughly contemporaneously with the New Mexico's fiscal year. The Energy, Minerals and Natural Resources Department (EMNRD), Oil Conservation Division (OCD) is the lead regulatory agency for oil and gas exploration and development in New Mexico. OCD enforces the State's Oil & Gas Act and Water Quality Act within the upstream sector. OCD also has primacy from the USEPA over Class I, II, III, and V injection and disposal wells under the federal Underground Injection Control program when wells are associated with activities in the oil and gas industry.

OCD has authority under the Oil and Gas Act (NMSA 1978, Section 70-2-38) to plug orphan wells and remediate and restore well sites and associated oil and gas facilities. OCD generally undertakes these efforts using its Oil and Gas Reclamation Fund, which is derived from severance taxes on oil and gas operators, operator financial assurance, legal judgments, and special appropriations from the State Legislature. Over the last three years that fund has provided OCD with on average $XX million per year in funds for plugging and reclamation activities. The initial grant from the Department of the Interior (DOI) will greatly expand and enhance the resources to this program. OCD intends to direct nearly all the initial grant to contracts with plugging and environmental service providers and other public institutions without retaining any portion for OCD's administrative and indirect costs and has certified that it will not use less than 90% of requested funds to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work. Private sector work is facilitated via one or more price agreements stipulating fixed rates for labor and equipment which can be renegotiated on a yearly basis. Efforts involving public institutions are facilitated through memorandums of understanding.

Funding from the initial grant will be used to:

- plug, remediate, and reclaim orphan wells on state trust lands and privately-owned lands that have already been identified;
- assist OCD in the ranking and prioritization of wells and associated facilities;
- assist OCD in the identification of previously undocumented orphan wells and facilities;
- assist OCD in identifying and addressing any disproportionate burden on disadvantaged communities;
- assist OCD in making information associated with the program accessible via its website, including program expenditures;
- assist OCD in the preparation of required reporting to DOI;
- properly dispose of contaminated materials derived from orphan plugging and remediation at facilities in New Mexico permitted by OCD to manage oil field waste;
- reclaim salvageable materials and equipment while directing those funds back into the program;
- measure and track gaseous emissions, including methane, from orphan wells;
- measure and track contamination of surface water, groundwater, and soils; and
- restore degraded vegetation and habitat.

Initial grant funds will not be used for activities on federal or tribal lands, but may be used, consistent with DOI's guidance for federal wells on split estate lands. Initial grant funds will not be used to administer the program. Any funds that remain unobligated one year after the date of receipt of funds will be reimbursed to DOI as required by the IIJA.

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Attachment F – OMB Form 4040-0019 Project Abstract Summary

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OMB Number: 4040-0019
Expiration Date: 02/28/2022

Project Abstract Summary

This Project Abstract Summary form must be submitted or the application will be considered incomplete. Ensure the Project Abstract field succinctly describes the project in plain language that the public can understand and use without the full proposal. Use 4,000 characters or less. Do not include personally identifiable, sensitive or proprietary information. Refer to Agency instructions for any additional Project Abstract field requirements. If the application is funded, your project abstract information (as submitted) will be made available to public websites and/or databases including USAspending.gov.

Funding Opportunity Number

D-AQD-FA-22-003

CFDA(s)

Applicant Name

New Mexico Energy, Minerals & Natural Resources Department

Descriptive Title of Applicant's Project

Orphaned Well Site Plugging, Remediation, and Restoration

Project Abstract

The purpose of this project is to greatly expand the capacity of the State of New Mexico's established program to properly plug orphaned oil and gas wells, remove and salvage unused equipment and surface infrastructure, assess incidents at orphan sites where contaminants have been released into the environment, remediate the impacts of such incidents, undertake surface restoration, and to recoup as much of the costs as possible from available financial assurance. These efforts may reduce methane and volatile hydrocarbon emissions from unplugged orphan wells, minimize the waste of mineral resources, protect and restore water and soil, and to return lands to a state similar to that which existed before oil and gas activities. The prioritization of plugging and remedial efforts takes into consideration such factors as active leaks, nearby human activity, the proximity to water supplies and sensitive environments, the age of wells, known well integrity issues, citizen complaints, and the proximity of other orphans among other criteria. Not only will this enhance the quality of life and the environment in these areas, but it will also provide high-paying jobs for local individuals with a broad variety of skills.

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Attachment G – Narrative of Recommended Application Elements

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The following are items the Department of the Interior considers important components of a successful orphan well program. Although not required, states are being encouraged to incorporate these features into projects funded with Initial Grant.

a) Overview of New Mexico's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under state law:

OCD rules do not provide a definition of orphan well. Under its rules, OCD can initiative a quasi-judicial enforcement process to obtain a plugging order for a well that has been inactive (i.e., not reported production) for a period of more than 12 months. In the past OCD considered a well orphan once it had gone through the full legal process and the agency obtained a plugging order. However, given internal resource limitations, OCD has never been able to pursue plugging orders against all potentially eligible wells (i.e., those without production for more than 15 months). As explained below, with the infrastructure act finalization, OCD has done a further review to identify wells that are likely to be orphaned given their current status and lack of production, even though they may not have been through the full legal process and be subject to a current plugging order.

Operators are required to report production from each of their wells to OCD on a monthly basis. That information is provided to OCD electronically and incorporated into a database. At regular intervals the database is queried for those wells without reported production. If a well does not show production for a period of one year (inactive well), the operator is required to either place the well in approved temporary abandonment status or to properly plug and abandon the well within ninety days. A subset of inactive wells in the system represents a group of wells that have a high likelihood of becoming orphan. This number may fluctuate over time as additional operators become insolvent or some wells resume production but represents the most likely universe of wells that have a high potential to be orphaned (either currently or in the near-term).

If an operator fails to comply with these production requirements, they are issued a Notice of Violation, taken to an administrative hearing seeking compliance, and an order is thereafter agreed upon or issued after hearing. These hearings are noticed to the public and open for public participation. Because the plugging hearings are quasi-judicial enforcement actions, they are subject to due process requirements and prosecutorial discretion that preclude public involvement prior to the hearing.

The orders resulting from a plugging hearing will require the operator to either immediately return the wells to production, enter into a compliance schedule for returning their wells into compliance with OCD rules, or plug the wells. If an operator fails to take these steps, the order also explicitly provides OCD with the right to plug the wells and recoup financial assurance and excess costs. When an operator fails to meet these requirements or show up for the administrative hearing, OCD is given authority to plug the wells.

With respect to financial assurance, before a new operator can be registered in the state, they must obtain the proper financial assurance depending on the number and type of wells they intend to operate. The financial assurance will either be in the form of

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single-well bonds or as part of a blanket bond covering all the operator's wells. If OCD is required to plug and abandon the sites because the operator is unable or unwilling to, OCD has the authority to forfeit any applicable financial assurance once plugging work is complete. The financial assurance helps the state to offset the cost of plugging and abandonment operations; however, because of statutory limits on financial assurance the amounts available for forfeiture are typical below plugging costs.

b) A description of New Mexico's plugging standards, including the witnessing requirements:

The State of New Mexico's regulations for the plugging and abandonment of wells (19.15.25 New Mexico Administrative Code (NMAC)) provide general expectations and requires a detailed plan of the plugging procedure from an operator that must be preapproved by OCD. OCD's plugging requirements are very similar and either meet or exceed those contained in the Bureau of Land Management's (BLM) Onshore Oil and Gas Order No. 2 with only slight deviations in specific circumstances. These similarities are essential in New Mexico due to the diversity of land ownership (federal, state, and private; including split estate) and the significance of federal lands in the state's overall oil and gas operations.

Operators are required to notify OCD 24 hours prior to commencing plugging operations to provide OCD with the opportunity to witness. Operators are also required to contact OCD upon completion of plugging and restoration operations. OCD will not approve the record of plugging or release a bond until we have inspected and approved the location.

While OCD is not subject to the notice and pre-approval requirements, when it plugs a well its contractors comply with the substantive requirements of OCD's plugging rules.

c) Details of New Mexico's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities:

The current prioritization for both plugging and surface restoration is to identify orphaned facilities that present high-level concerns such as active or historic leaks, proximity to occupied structures, risks to surface or groundwater, proximity to water supply wells and wetlands, known or suspected well integrity issues, lack of well control at the surface, elevated downhole pressures, the age of the well, proximity to agricultural areas, the possible presence of hydrogen sulfide or naturally occurring radioactive materials, the presence of threatened or endangered species, public complaints, and cost efficiencies.

There are currently more than 30 unique factors which are considered when prioritizing OCD's efforts. The presence of an active leak will place a well or associated facility at the top of OCD's prioritization. Increased weight is given to areas with high proximity to human activity, proximity to supplies of usable water, and known well integrity concerns. Each unique factor is given a score number and by summing all the criteria that apply to

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the well or site, it will be given an overall score. The higher the score, the higher the priority.

Additionally, a factor OCD is always mindful of is the proximity of orphaned wells and facilities to one another. Plugging and restoration operations often include locations with varied rankings due to the proximity of wells to one another. Mobilization and demobilization costs can be substantially reduced if plugging work orders are issued for groups of wells that are in the same well. By plugging wells in a general area at the same time OCD can realize some cost savings. This ensures that OCD makes the best use of the funds that are available.

d) Details of how New Mexico will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;

The majority of the oil and gas production in New Mexico occurs in two unique basins, the San Juan Basin consisting primarily of San Juan, Rio Arriba, McKinley and Sandoval counties, and the Permian Basin consisting primarily of Lea, Eddy, and Chaves counties. Based upon the definitions provided in the initial grant guidance, these areas qualify as "disadvantaged communities" broadly speaking (e.g., poverty rates range from 10% to 32% across these areas). This on-the-ground reality means that many, if not all the wells and associated facilities that OCD plugs and reclaims will be in disadvantaged communities. Notwithstanding that general condition, OCD's prioritization process includes additional weighting for proximity to homes and businesses as well as locations within municipal boundaries when we are making decisions about where to plug first.

e) The methodology to be used by New Mexico to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions:

Currently, OCD inspection staff use audio/visual/olfactory inspections and carry explosivity monitors which will detect methane of sufficient concentration if methane is leaking from an orphan well. This methodology provides a yes or no indication that there is methane being released from an orphaned well and indicates where follow-up may be required. Orphan wells with active methane or other leaks, be it liquid or gas, are elevated on OCD's priority list as is explained in section c) above.

Currently, the plugging and reclamation contractors that are on a price agreement with the State (which tend to be smaller and local) are either not familiar, trained, or properly equipped to perform more precise measurements. OCD is working on updating those contracts and evaluating additional opportunities to identify and quantify potential methane emissions from orphaned wells as part of the plugging program and is currently evaluating means to provide such measurement. This includes finding contractors capable of providing those specific services. The suggestions about methodologies in the existing guidance provides helpful starting points and we would encourage that sufficient flexibility be retained going forward so that we can select

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methodologies appropriate for the program and the type of orphaned resources we see in New Mexico.

f) The methodology to be used by New Mexico to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the state will confirm the effectiveness of plugging activities in reducing or eliminating such contamination:

For the remediation of orphan well sites and associated facilities, OCD will first evaluate the site for any active or historic liquid and gas releases. Sites without releases will be plugged, the equipment removed, and the site reclaimed without undertaken a ground or surface water assessment. Sites with releases (either known or suspected) will receive an assessment by an environmental contractor. The contractor will determine the horizontal and vertical extents of any spill. They will also evaluate whether there is a potential that any release may have impacted groundwater. Depending upon such a determination, they may decide to drill and install groundwater monitoring wells. Not every site will require the installation of monitoring wells especially those where the depth to groundwater is significant. New Mexico believes it is most appropriate to install water monitoring infrastructure when and where appropriate as opposed to incurring the additional expense and disturbance at every site.

If ground or surface water contamination does exist, its extent will be delineated, and an abatement plan implemented. Where fund, such contamination is remediated to the numeric standards established by the New Mexico Water Quality Control Commission (20.6.2.3101 NMAC) and we are required demonstrate compliance with those standards for eight consecutive quarters after active remedial efforts have ended.

g) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure:

The decommissioning of inactive non-retrieved pipelines containing regulated naturally occurring radioactive material (NORM) is addressed in 19.15.35.10 NMAC. It requires such activities to be done in a manner protective of the environment, public health, and fresh waters. The location of the pipe must be determined, hydrocarbons and produced water must be flushed from the pipe, and a radiation survey is required at all points accessible at the surface which are then permanently capped. No additional NORM can be placed into the pipe. The surface owner must be informed of the intent to leave idle underground pipeline in place.

The closure of pits and below-grade tanks is addressed in 19.15.17 NMAC, which allows the in-place burial or offsite disposal of drilling wastes but requires the removal of tanks. Facilities and other surface infrastructure are removed entirely unless the surface owner requests otherwise. Any marketable salvage is sold to offset OCD's plugging and remediation costs.

The corrective action requirements for spills and releases which arise during oil and gas exploration and production operations in New Mexico are contained within 19.15.29 and

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19.15.30 NMAC. As such, there are defined procedures for the reporting, assessment, remediation, and closure of releases adversely affecting soils, surface waters, and groundwater. Though these regulations were written with active operators as the responsible party in mind, OCD uses the closure requirements of the regulations when addressing orphaned well sites and associated facilities. Most incidents are remediated by direct excavation and disposal of contaminated materials, but in situ treatment options are continuously being evaluated.

Surface restoration is also addressed in 19.15.29 NMAC, requiring surface areas to be returned to the condition that existed prior to any release or to the land's eventual use. There are requirements for erosion control, long-term stability, the preservation of surface water flow patterns, and the prevention of ponding. The uppermost four feet of soil in disturbed areas must be non-waste containing and uncontaminated including a background thickness of topsoil. The disturbed area must be reseeded in the first favorable growing season following final grading, and a vegetative cover needs to be established which reflects the surrounding area. OCD typically considers reclamation complete when a uniform vegetative cover has been established the reflects a life-form ratio or plus or minus 50% of pre-disturbance levels and a total percent plant cover of at least 70% of pre-disturbance levels, excluding noxious weeds. The New Mexico State Land Office (NMSLO) has requirements for reseeding that are adhered to on state trust lands.

h) Methods New Mexico will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public:

Two of the factors currently used in developing individual well and site rankings are citizen's complaints and relative importance to the NMSLO, which oversees and controls state trust lands. OCD is working with the State Land Office to prioritize sites based on the criteria listed above in section c). Once ranked, OCD prioritizes plugging and remediation activities first by wells/sites which pose a possible risk of harm to public health and the environment, and secondly according to plugging schedules which maximize administrative efficiency.

Additionally, as discussed in section a) above, before OCD can plug or reclaim a site, it must go through a public administrative hearing to obtain a plugging order. During this public hearing there are opportunities for additional parties to enter appearances in the case as well as opportunities for public comment (oral and written). Any public comment that is provided will be a factor that is taken into consideration in the site ranking criteria within the universe of wells subject to approved plugging orders.

i) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanied the grant application guidance:

OCD will provide information on program performance to the Department of Interior on a quarterly basis in spreadsheet form using the Orphaned Well Data Reporting Template

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as a guide with the indicated units of measure. All data elements currently within the template, including the latitude and longitude of orphan wells, will be included as applicable and when available.

OCD has an information technology system that was developed internally known as OCD Permitting and OCD Imaging, both of which are accessible to the public using a standard web browser. The permitting component is currently being updated to allow for easier and more transparent tracking of costs associated with the plugging of orphan wells and associated surface restoration. The imaging system allows for the easy retention of and access to associated reports.

j) How New Mexico will use funding to locate currently undocumented orphaned wells:

OCD is currently evaluating and testing new ways to find abandoned wells. Undocumented wells are sometimes simply found by OCD inspectors during their daily efforts in the field. OCD is currently using contractors to review existing well files using OCD's on-line imaging system to identify wells which may be orphaned and in need of plugging. Additionally, OCD has recently initiated an effort to determine if unmanned aerial systems (drones) are useful to provide OCD with quick and cost-effective information which might lead to the discovery of undocumented orphans including identifying surface distress caused by historic operations. Finally, in recognition of New Mexico long history as an oil and gas producer, OCD is also re-evaluating wells that were plugged prior to the imposition of modern standards to see if those wells need to be re-visited. For example, some historical plugging practices did not require sufficient isolation between zones.

k) Plans New Mexico has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the state currently belongs to:

OCD has worked cooperatively with both the NMSLO and the BLM on oil and gas issues including the plugging and abandonment of orphan wells on state trust and federal lands. OCD has a memorandum of understanding with the SLO which allows OCD unrestricted entry, the ability to install soil borings and groundwater monitoring wells for environmental assessments, and clean soil for replacement of contaminated soil excavated at release sites, all without the charges required of other entities.

OCD and BLM also have a grant structure where BLM has provided funds to OCD for OCD to plug wells on federal lands. When plugging wells on federal land, OCD adheres to any additional requirements under BLM rules, including those to protect animal habitats. This includes the installation of below-grade plug and abandonment markers that would otherwise serve as hunting perches for predators and adherence to restrictions on field operations during the communal breeding season.

Finally, in terms of who does the actual plugging work OCD endeavors to contract with, consistent with applicable rules, local companies most of which are based in the regions where the orphan facilities are located.

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l) Training programs, registered apprenticeships, and local and economic hire agreements for workers that New Mexico intends to conduct or fund in well plugging or site remediation;

Training itself is outside the direct purview of OCD; however, training programs for individuals wanting to find a career in the oil and gas industry already exist in two major producing basins – in the Permian Basin at New Mexico Junior College in Hobbs and in the San Juan Basin at San Juan College in Farmington (both of which are in disadvantaged communities). Both provide associate degrees and certificate programs. Baccalaureate degrees in petroleum engineering can be earned at New Mexico Institute of Mining and Technology (NMIMT) in Socorro, which is recognized as one of the leading programs in the nation. Environmental engineering programs exist at NMIMT, the University of New Mexico in Albuquerque, and New Mexico State University in Las Cruces. These programs provide strong existing workforce development opportunities, although they tend to be more development focused.

OCD has existing agreements with the institutions to provide paid assistance to OCD, and we are working with other state agencies to explore opportunities to potentially use some of the grant money to support programs at those more specifically focused on plugging and remediation.

m) Plans New Mexico has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project:

OCD supports this goal but would not directly employ most of the folks doing the plugging work, instead it works through contractors. To the extent feasible, and consistent with the New Mexico Procurement Code, OCD has tried to focus on using smaller local contractors who tend to be based in the primary producing basins which tend to employ individuals from those same communities which also happen to contain populations most likely to be displaced by energy sector transitions. Therefore OCD has consistently encouraged DOI to carefully balance the requirements imposed by any grant awards under this program that might make it harder for smaller entities to provide services under this program.

OCD don't currently have specific metrics on these questions but can talk with the New Mexico Department of Workforce Solutions to identify appropriate training and employment support that might be provided given available funds.

n) Plans New Mexico has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development:

Please see the previous responses to items d), l), and m).

o) Procedures New Mexico will use to coordinate with federal or tribal agencies to determine whether efficiencies may exist by combining field survey,

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plugging, or surface remediation work across private, state trust, federal, and tribal land:

OCD has historically coordinated extensively with the BLM in New Mexico. For plugging orphans this coordination is typically initiated by requests from the BLM to ensure awareness and that all agencies agree and are aligned prior to beginning any work. Due to the jurisdictional limitations associated with tribal lands, OCD functions as a service provider and advisor rather than a regulatory agency and will not plug wells or remediation and reclaim facilities on Tribal lands without a direct request from the applicable Tribal government.

p) New Mexico's authorities to enter private property, or procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface:

OCD holds broad authority to regulate, inspect, investigate, and plug and abandon wells situated on private property per state statute. Specifically, NMSA 1978, Sections 70-2-1 to 39, including Section 70-2-12 B. (18) Enumeration of powers, which says "*...the oil conservation division may...do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;*"

In any event, OCD incorporates good neighbor practices in plugging, remediation, and reclamation efforts to ensure that it works with potentially impact landowners.

q) A work schedule covering the period of performance of the initial grant:

Efforts toward locating undocumented orphan wells and to prioritize wells to be plugged and facilities to remediate are already underway using state funding. We intend to continue and expand these efforts as appropriate with additional funding.

Based upon the language in the enabling federal legislation, grant award notification should occur within 30 days of application submittal. As such, notification should be provided to OCD no later than June 13, 2022. The state's Fiscal Year 2023 begins on July 1, 2022, and the earliest purchase orders can realistically be issued will be the end of July of this year. OCD intends to provide purchase orders for groups of wells and sites following receipt of workplans and cost estimates from multiple plugging and environmental service providers. Field work will occur thereafter until the obligated funds are expended. The required quarterly reports to the Department of the Interior are anticipated to be delivered on or about 10/30/22, 1/31/23, 4/30/23, and 7/30/23. The final report covering the entire effort funded by the initial grant is anticipated to be delivered on or about 10/30/23.

r) A federally approved Indirect Cost Rate Agreement or statement regarding the state's intention to negotiate or use the de minimis rate:

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EMNRD has an approved Indirect Cost Rate Agreement and its rate for the upcoming state fiscal year is 15.45%.

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Attachment H – State Certification for Large-Scale Initial Grant

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State Certification

Orphan Well Site Plugging, Remediation, and Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act, the State of New Mexico certifies that it is a Member State of the Interstate Oil and Gas Compact Commission.

The State of New Mexico, Energy, Minerals and Natural Resources Department, Oil Conservation Division ("EMNRD") also certifies that it has one (1) or more documented orphan wells within the state.

And EMNRD also certifies it will use no less than ninety percent (90%) of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphan wells within New Mexico by not later than 90 days after the date of receipt of the funds.

Todd E. Leahy	Deputy Cabinet Secretary
Certifying Official Name	Title
Signature	5/6/22
	Date

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Subject: OCD/NMOGA Data Meeting
Location: Microsoft Teams Meeting

Start: Tuesday, April 12, 2022 10:30 AM EDT
End: Tuesday, April 12, 2022 11:30 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Polak, Tiffany, EMNRD
Required Attendees: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Yolanda Perez (yolanda_perez@oxy.com) <Yolanda_Perez@oxy.com>; John Smitherman <jrs@nmoga.org>

John and Yolanda – please forward along to your team.
Thank you,
Tiffany

Microsoft Teams meeting

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STATE OF NEW MEXICO
DEPARTMENT OF ENERGY, MINERALS AND NATURAL RESOURCES
OIL CONSERVATION COMMISSION

IN THE MATTER OF THE APPLICATION OF THE NEW MEXICO OIL CONSERVATION DIVISION AND WILDEARTH GUARDIANS TO CONSIDER THE PROPOSED AMENDMENTS TO RULES 19.15.29.6, 19.15.29.8 AND 19.15.29.15 NMAC CONCERNING RELEASES

CASE NO. 21834
ORDER NO. R-21674-C

ORDER OF THE COMMISSION

THIS MATTER came before the New Mexico Oil Conservation Commission ("Commission") on the application of the Oil Conservation Division of the Energy, Minerals and Natural Resources Department ("Division") and WildEarth Guardians ("WEG") to amend Rules 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC. The Commission conducted a rulemaking hearing in this matter on June 9 and subsequently deliberated in open session on June 10, 2021. The Commission, having considered the testimony, the record, and the arguments of the parties, and being otherwise fully advised, enters the following findings, conclusions, and order.

THE COMMISSION FINDS THAT:

1. Statutory Authority. The Commission is authorized to adopt rules, after a hearing, under the Oil and Gas Act, NMSA 1978, Sections 70-2-1 through 70-2-38, and specifically, Section 70-2-6 (authorizing the Commission to exercise jurisdiction, authority, and control of and over all persons, matters, and things necessary or proper to enforce the statute), Sections 70-2-11 (authorizing the Commission to make rules to prevent waste, protect correlative rights, and to do whatever may be reasonably necessary to implement the statute), Section 70-2-12 (enumerating the powers of the Commission and Division), and Section 70-2-31 (authorizing the Division to bring administrative and judicial actions for violations of the Oil and Gas Act and Commission rules). The public hearing in this matter was conducted in accordance with the Commission's rule on rulemaking proceedings, 19.15.3 NMAC.

2. Application and Notice. The Division and WEG filed an Application on March 11, 2021, to amend Rules 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC to prohibit major and minor releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production to protect public health and the environment, and to conform 19.15.29.15 NMAC with the general enforcement provisions of 19.15.5.10 NMAC, which were adopted by the Commission in 2020. The Application included a draft of the proposed rule changes and a proposed legal notice. 19.15.3.8(A) NMAC.

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3. At a public meeting on April 15, 2021, the Commission decided to hold a hearing on the proposed rule changes and scheduled the rulemaking hearing to begin on June 9, 2021. 19.15.3.8(C) NMAC. The Commission determined that the hearing would be held in a virtual and telephonic format due to the public health restrictions in place to combat the COVID-19 pandemic. The Commission decided to require that anyone wishing to present technical testimony to identify all witnesses to be presented at the hearing and submit a summary of each witness's anticipated testimony, and that all members of the public should notify the Commission Clerk if they wished to address the Commission during the hearing. Commission also provided a written comment period of fifty-six (56) days, from April 15, 2021 to June 9, 2021.

4. Pre-hearing statements were submitted by the Division; WEG; the New Mexico Environmental Law Center ("NMELC") representing the Rio Grande Chapter of the Sierra Club, the Pueblo Action Alliance, Citizens Caring for the Future, the Native American Voters Alliance Education Project ("NAVAEP"), and Amigos Bravos; the Independent Petroleum Association of New Mexico ("IPANM"); and the New Mexico Oil and Gas Association ("NMOGA"). The parties proposed to present a mix of technical and non-technical witnesses, which included anticipated written testimony provided with the pre-hearing statements, as well as oral testimony during the hearing. OCD, with concurrence of WEG, IPANM, and NMOGA, proffered the initial rule changes, with NMELC offering its proposed modifications through its pre-hearing statement. In particular, NMELC's proposed rule amendments sought to add three additional regulatory requirements beyond the proposals of OCD and WEG. Additionally, the Commission reviewed all written comments, which it received prior to the hearing, and heard oral comments made during the hearing. Comments included an objection to the proposed rule changes, support for the proposed rule changes, and suggested alternative language and other modifications to the proposed rule changes.

5. Proposed Rule Changes. The Division proposed to amend 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC. The proposed rule changes and proposed modification:

a. Amended 19.15.29.6 NMAC to clarify that one of the objectives of 19.15.29 NMAC is to prohibit unauthorized major and minor releases;
b. Amended 19.15.29.8 NMAC to provide for an express prohibition on major and minor releases subject to exceptions found in 19.15.27 and 19.15.28 NMAC;
c. Amended 19.15.29.15 NMAC to align the rule with the enforcement rule found in 19.15.5.10 NMAC, which was adopted by the Commission in 2020.

6. Motion Hearing. Subsequent to the Commission's entry of its procedural order setting forth deadlines for the parties and the filing of pre-hearing statements as required under the procedural order, OCD, NMOGA, IPANM, WEG filed motions seeking to strike, exclude, or otherwise prohibit NMELC from proffering certain evidence at the June 9, 2021 hearing.

7. On June 4, 2021, Commission Hearing Officer Felicia Orth presided over a properly noticed motion hearing to address the Parties' filings. After hearing the arguments of the

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Parties and consulting relevant law, Hearing Officer Orth issued Order No. R-21674-B that, in summary:

a. Permitted NMELC to present testimony in support of OCD and WEG's proposed rule amendments;

b. Found NMELC's proposed additional regulatory requirements are not properly part of the rulemaking;

c. Invited NMELC to file its own petition to amend the rules subject to the current rulemaking;

d. Found that NMELC's pre-hearing statement, while not fully compliant with the Commission's rules or the Commission's procedural order, provides sufficient information to the other Parties concerning Mr. Zupan, but permitted the Parties to renew objections to Mr. Zupan's testimony should he offer testimony not contemplated by NMELC's pre-hearing statement;

e. Prohibited Kayley Shoup from providing testimony concerning a purported connection between cancer and releases due to a lack of professional expertise on the matter;

f. Barred NMELC from proffering Mr. Gaume's Excel workbook into evidence, including testimony referring to or relying upon such workbook;

g. Barred NMELC from introducing its proposed additional regulatory requirements into evidence.

8. At the rulemaking hearing in this matter, NMELC appeared to elicit testimony from Mr. Norman Gaume, in violation of the Hearing Officer's order, to which other Parties objected, and such testimony, while given at the rulemaking hearing, is not contemplated by this Order.

9. Public Hearing. The Commission conducted a virtual public hearing on the proposed rule changes on June 9, 2021. The Commission subsequently deliberated in open session on June 10, 2021.

10. Documentary Evidence. In conjunction with their prehearing statements, OCD and NMELC provided proposed exhibits for the hearing, which generally included summaries of written technical testimony and corresponding presentations, witness résumés, proposed changes and additions to the rule amendments, and empirical demonstrative documents. Each Commissioner reviewed the proposed exhibits before, during and after the rulemaking hearing and subsequently admitted into the record such exhibits during the course of the rulemaking hearing.

11. Public Comment. Members of the public were requested to notify the Commission Clerk in advance of the meeting if they wished to provide public comment. The Commission heard nine (9) public comments during the course of the hearing. The Commission provided multiple

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opportunities for the public to provide public comment during the hearing. Several people provided comments in their individual capacity, as well as on behalf of various organizations.

12. Public comment included substantial support for the proposed rule changes, the methods used to draft the proposed rules and the hearing procedures more generally. An overwhelming majority of commenters voiced support for increasing the Division's efforts to monitor and prevent releases, averring that such enforcement and prevention methods would reduce general environmental damage, protect public health both general and specifically in Native American communities, and otherwise advance the interests of New Mexican citizens. Other comments included requests that the Commission create much more stringent regulations, including addition of source characterization reporting, notification requirements to owners or occupants of lands adjacent to unauthorized releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production, and requests for harsher penalties for those violating the stricter regulations.

13. Written Comments. The Commission received two (2) written comments from an individual and a nongovernmental organization prior to the hearing. The Commission formally entered all received written comments into the hearing record and reviewed these comments as part of the record of this hearing.

14. Division Testimony: The Division presented one witness in its case-in-chief: Jim Griswold. Mr. Griswold was subject to cross-examination by the other parties and by the Commissioners and Commission Counsel.

15. The Division proffered Jim Griswold, Special Projects Manager and former Environmental Bureau Chief for the Division, as witness on the Division's historical regulation of releases, Division's database of reported releases between 2010 and 2020, the nature of major and minor releases that require remediation, the proposed modifications, and the Division's perspective on the benefits of the proposed modifications.

16. Mr. Griswold detailed his work history with the Division, touching on role handling oil and gas releases, including characterization and remediation. Mr. Griswold also pointed to his experience in administrative rulemaking and crafting of guidance under such rules. Mr. Griswold testified that he is quite familiar with Part 29, which encompasses the proposed rule changes at issue in this rulemaking.

17. Mr. Griswold testified that the intent of the proposed rule changes is to bar releases.

18. Mr. Griswold explained that the proposed rule changes to 19.15.29.6 and 19.15.29.8 NMAC were intended to clarify the proposed prohibition on major and minor releases.

19. Mr. Griswold further stated that the proposed changes to 19.15.29.6 and 19.15.29.8 NMAC bring Part 29 into harmony with Part 5, the enforcement provisions, of the Division's rules.

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20. Mr. Griswold provided a lengthy history of Part 29, starting in 1991. Mr. Griswold explained how Part 29 evolved from primarily a reporting requirement rule, to a remediation rule, and then to a rule that addresses impacts of and responses to releases.

21. Mr. Griswold based his testimony pertaining to Part 29 on the Division's Exhibits two (2) through five (5), with those exhibits reflecting the evolution of Part 29 since 1991.

22. Turning to the purposes of the proposed rule changes, Mr. Griswold testified that reducing the frequency and severity of releases due to their adverse effects on public health and the environment are the priority. Mr. Griswold provided examples of such adverse effects, including the fact that releases contain substances toxic to animal and plant life, but also may find their way into groundwater and otherwise spread beyond the release site.

23. Mr. Griswold stated he reviewed the Division's database for reported releases between 2010 and 2020. Mr. Griswold found that the average number of releases per day totaled 3.4. The approximate number of releases between 2010 and 2020 totaled twelve-thousand (12,000), with about seven-thousand (7,000) involving produced water and four-thousand (4,000) involving crude oil.

24. Mr. Griswold defined a "major release" of liquids as greater than twenty-five (25) barrels, or one-thousand and fifty (1,050) gallons.

25. Mr. Griswold also noted that, while theoretically all releases are preventable, such high expectations are unrealistic. Mr. Griswold then opined that he believes a significant fraction of releases is, in fact, preventable through the implementation of best practices by operators.

26. Turning to the proposed rule changes, Mr. Griswold testified that:

a. As to 19.15.29.6 NMAC, the addition of the language "prohibit releases" clarifies the current language and expressly establishes a prohibition on releases. The remaining changes to Section 6 clean up the rule's language for clarity.

b. As to 19.15.29.8 NMAC, Section 8 sets forth the unambiguous prohibition on major and minor releases, providing for exceptions as found in Parts 27 and 28 of the Division's regulations. Mr. Griswold pointed out that, under Parts 27 and 28, venting and flaring could be characterized as an authorized release, and therefore must be accommodated under the proposed modifications to Section 6.

c. As to 19.15.29.15 NMAC, Mr. Griswold testified that Section 15 is the enforcement provision of Part 29. The proposed changes to this section relate to the 2020 modifications of Part 5 of the Division's regulations, thus aligning Part 29 and Part 5.

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d. Mr. Griswold testified that the Division and WEG's proposed changes aim to result in fewer releases. Further, Mr. Griswold testified that Part 29, through the proposed rule changes, is the primary regulation governing releases.

e. Mr. Griswold outlined that the proposed rule changes to Part 29 grant the Division the authority to pursue civil penalties against operators responsible for unauthorized releases, a tool that should be helpful in curtailing future releases.

27. Mr. Griswold testified that the proposed rule changes came out of a collaborative process and that OCD supports the proposed rule changes. Mr. Griswold further stated that the proposed rule changes should generate more up-front due diligence by operators such that releases diminish in number.

28. WEG's Testimony: WEG presented no witnesses at the rulemaking hearing.

29. IPANM's Testimony: IPANM presented no witnesses at the rulemaking hearing.

30. NMOGA's Testimony: NMOGA presented no witnesses at the rulemaking hearing.

31. NMELC's Testimony: NMELC proffered six (6) witnesses at the rulemaking hearing: Camilla Feibelman on behalf of the Rio Grande chapter of the Sierra Club; Julia Bernal on behalf of the Pueblo Action Alliance; Kayley Shoup on behalf of Citizens Caring for the Future; Joseph Hernandez on behalf of NAVAEP; Joseph Zupan on behalf of Amigos Bravos; and Norman Gaume on behalf of Sierra Club. These witnesses were subject to cross-examination by the other parties and by the Commissioners and Commission Counsel.

32. NMELC proffered Kayley Shoup on behalf of Citizens Caring for the Future as a nontechnical witness. Ms. Shoup testified that she is a community organizer in southeastern New Mexico for Citizens Caring for the Future. Citizens Caring for the Future is a group of engaged citizens seeking to find an informed and safe path to ensure protections for member communities in the face of rapid oil and gas development in Southeast New Mexico, per Ms. Shoup.

33. Ms. Shoup testified that she is a native of Carlsbad, New Mexico and maintains her present role as a community organizer due to extensive impact of oil and gas development in her community. Ms. Shoup explained that she took up the role of community organizer precisely because of the issues of produced water and oilfield waste.

34. Ms. Shoup shared her experience with the produced water rulemaking conducted by the Commission in 2019 and how she perceived the Division as lacking authority to handle releases properly on community member lands.

35. Ms. Shoup wishes the Commission to adopt the proposed rule changes, but to focus more on how producers should remediate release sites. Ms. Shoup further testified that she has not personally been harmed by oilfield releases. However, Ms. Shoup does support this rulemaking.

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36. NMELC proffered Camilla Feibelman on behalf of the Rio Grande Chapter of the Sierra Club as a nontechnical witness. Ms. Feibelman is the director of the Rio Grande Chapter of the Sierra Club. Ms. Feibelman has a master's degree in planning from the University of Puerto Rico and earned her undergraduate degree in environmental biology from Colombia University. Ms. Feibelman worked and continues to work on environmental issues, which includes participation in technical rulemakings concerning environmental quality and protection.

37. Ms. Feibelman testified that the Rio Grande Chapter of the Sierra Club's mission is to explore, enjoy, and protect the planet, with that mission directly relating to the subject matter of this rulemaking.

38. Ms. Feibelman stated that the proposed rules are necessary to reduce the impact of the oil and gas industry on people and the environment. Ms. Feibelman further opined that collaborative rulemaking such as the present one are key to moving forward on protecting air, water, and other aspects of the environment.

39. Ms. Feibelman testified that the proposed rules increase the enforcement authority of the Division, which assists with the Sierra Club's mission. Ms. Feibelman lamented that the Division still needs more funding, staffing, and other resources to implement adequately its regulations.

40. Ms. Feibelman testified that she supports the proposed rules and this rulemaking proceeding.

41. NMELC proffered Julia Bernal on behalf of the Pueblo Action Alliance as a nontechnical witness. Ms. Bernal is the current director of Pueblo Action Alliance, a community organization that addresses environmental and social injustices that occur on ancestral tribal lands. The Pueblo Action Alliance is a woman and youth-led organization that addresses issues with the fossil fuel industries, federal land leasing programs, climate adaption and the economic impacts of extractive industries that desecrate cultural integrity.

42. Ms. Bernal testified that she now has an understanding of how "a typical fracking well works," including water usage and produced waste. Ms. Bernal further stated that produced water should be treated in a manner that holds the producers accountable for the consequences of such releases.

43. Ms. Bernal testified that she supports the proposed rules, but requested that, in the future, the Commission "engage in its 2020 Tribal Collaboration Act" with the various nations in New Mexico concerning future rulemaking.

44. NMELC proffered Norman Gaume as a technical witness. Mr. Gaume is a retired licensed professional water engineer. He possesses a Bachelor of Science in electrical engineering and a Master's of Science in civil engineering, both from New Mexico State University.

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45. Mr. Gaume detailed his professional background, which included thirty-seven (37) years of work that required a professional engineering license. Mr. Gaume's background includes water and wastewater facilities management, operations, maintenance, design, and construction, and water resources management, planning and administration. Mr. Gaume worked as the director of the New Mexico Interstate Stream Commission for six years, wherein he worked with stakeholders to ensure compliance with the 1987 United States Supreme Court decree that New Mexico never again would owe water to Texas *via* the Pecos River.

46. Mr. Gaume stated that he supports the proposed rules and this rulemaking.

47. Mr. Gaume opined that, absent the proposed rules, releases in New Mexico are not prohibited nor are they illegal.

48. Mr. Gaume stated that banning releases is an essential, but insufficient, step in avoiding releases.

49. Mr. Gaume testified that he believes the Division does not properly exercise its enforcement authority when it comes to releases.

50. Mr. Gaume testified he believes the Division's approach to regulation of releases is piecemeal, which is part of the overall problem.

51. Mr. Gaume requested that the Commission and Division provide him a regulatory plan so he and the public could begin a collaborative process of revising again the rules currently under revision.

52. Mr. Gaume asserted that, under the 1971 amendment to the New Mexico Constitution, the public has the right to a clean and safe environment. Mr. Gaume further stated that due to New Mexico's dry climate, the state's groundwater resources are especially at risk.

53. Mr. Gaume reiterated his support for the proposed rule changes and this rulemaking process.

54. Mr. Gaume also acknowledged that he has no professional experience with produced water in a professional capacity, nor had he any professional experience working with oil and gas facilities or operations. Mr. Gaume also acknowledged that he did not review any prior versions of the proposed rules, including rules that contain reporting requirements.

55. NMELC proffered Joseph Hernandez on behalf of NAVAEP as a non-technical witness. Mr. Hernandez is a member of the Zia Pueblo and lives west of Shiprock, New Mexico. He is the Diné energy organizer for the NAVA Education Project. This role requires him to engage effectively Navajo communities in renewable energy advocacy.

56. Mr. Hernandez testified that his community is very familiar with the impacts from oil and gas releases, referring to a tanker truck release on US 550 that threatened the health and lives of his community.

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57. Mr. Hernandez testified about a February 2019 release within the Counselor Chapter Borders that released fifty-five thousand (55,000) gallons of combined crude oil and produced water that ended up in the Escavada Wash that leads into Chaco National Monument.

58. Mr. Hernandez supports the proposed rule changes, but believes more needs to be done in terms of preventing releases.

59. NMELC proffered Joseph Zupan on behalf of Amigos Bravos as a technical witness. Mr. Zupan is the executive director of Amigos Bravos, a non-profit whose mission is to protect and restore the waters of New Mexico by restoring watershed health, holding polluters accountable, and building a water protection movement for the future. Prior to joining Amigos Bravos, Mr. Zupan worked as an environmental consultant with clients that included oil and gas exploration and production companies. Mr. Zupan possesses a Bachelor of Science degree from the Colorado School of Mines in chemical and petroleum refining engineering. Mr. Zupan currently holds professional engineering licenses in New Mexico and Colorado. Mr. Zupan's technical work included risk-based corrective action through calculation of risks posed by released contaminants into soil, surface water, and groundwater to develop cleanup standards that minimize risks to human health and the environment.

60. Mr. Zupan supports the proposed rule changes, which he sees as a very important step in protecting human health and the environment from the impacts of oilfield releases.

61. Deliberation and Action. The Commission began and completed deliberations regarding the proposed rule changes on June 10, 2021. The Commission reached a tentative decision on the proposed rule changes, and requested that Commission Counsel prepare a proposed order for its review and approval. At the meeting on July 8, 2021, the Commission reviewed the proposed rule changes and the proposed order, and adopted the proposed rule changes as provided in attached Exhibit A for the reasons set forth herein.

62. Reasons for Adopting Rule Changes. The Commission finds that the proposed rule changes are a reasonable implementation of the stated objectives of both the Division and WEG, and are supported by substantial evidence. The proposed rule changes appropriately amend 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC to ensure that Part 29 is consistent with the Oil and Gas Act. The Commission finds that the proposed rule changes, as modified, create a necessary and appropriately revised framework for the Division regarding unauthorized releases of oil, gases, produced water, condensate, oil field waste, and other contaminants that occur during oil and gas development and production, as well as suitable enforcement of such a prohibition on releases. The proposed rule changes, as modified, appropriately outline the jurisdiction of the Division with respect to the regulation of unauthorized releases of oil, gases, produced water, oil field waste, and other contaminants that occur during oil and gas development and production.

63. The Commission finds that the Division and WEG's proposed rule changes to 19.15.29.6 NMAC, with the agreement of NMOGA and IPANM, are a necessary clarification that the purpose and intent of 19.15.29 NMAC, titled "Releases," is to prohibit releases.

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64. The Commission finds that the Division and WEG's proposed rule change to 19.15.29.8 NMAC by adding a new subsection (A), with the agreement of NMOGA and IPANM, is necessary and make expressly clear that major and minor releases are prohibited. The Commission further finds that the references to 19.15.27 and 19.15.28 NMAC are appropriate based on the recent venting and flaring rulemaking, particularly because the proposed rule change to add subsection (A) to 19.15.29.8 NMAC aligns with the reporting scheme found in 19.15.27, 19.15.28, and 19.15.29 NMAC.

65. The Commission finds that the Division and WEG's proposed rule changes to 19.15.29.15 NMAC, as a whole and with the agreement of NMOGA and IPANM, are necessary to align 19.15.29.15 with 19.15.5 NMAC, titled "Enforcement and Compliance," thus bringing those sections into harmony. Further, the Commission finds that the proposed rule changes to 19.15.29.15 NMAC are necessary to ensure compliance with the proposed rule changes to 19.15.29.8(A) NMAC, and to preserve the Division's enforcement discretion.

66. The Commission generally finds that the Division and WEG's proposed rule changes to 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC provide a clear and unambiguous prohibition on major or minor releases and hereby adopts the Division and WEG's proposed rule changes as follows:

a. The Commission hereby accepts the proposed changes to 19.15.29.6 NMAC. In particular, the Commission accepts the addition of the added language "prohibit releases and," "procedures for," and the deletion of "procedures."

b. The Commission hereby accepts the proposed changes to 19.15.29.8 NMAC. In particular, the Commission accepts the addition of a new subsection (A), which contains the express prohibition on major and minor releases, with the exceptions of any releases permitted under 19.15.27 and 19.15.28 NMAC.

c. The Commission hereby accepts the proposed changes to 19.15.29.15 NMAC. In particular the Commission accepts the following:

    i. The correct placement of the phrase "pursuant to 19.15.5.10 NMAC" in subsection (A) of 19.15.29.15 NMAC.

    ii. The replacement of "an agreed compliance" with "a stipulated final" in subsection (B) of to 19.15.29.15 NMAC.

    iii. The replacement of "agreed compliance order or administrative compliance order" with "or final order" in subsection (C) of 19.15.29.15 NMAC.

    iv. The deletion of subsection (D) of 19.15.29.15 NMAC.

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THE COMMISSION CONCLUDES THAT:

1. The Commission has jurisdiction, under the Oil and Gas Act, NMSA 1978, §§ 70-2-1 to -38, over the parties and subject matter of this case.

2. The Commission has legal authority, under the Oil and Gas Act, to enact the proposed rule changes.

3. The Commission provided due public notice and an opportunity for the public to provide comments regarding the proposed rule changes. The Commission held a public rulemaking hearing and provided a reasonable opportunity for all persons present or interested in the subject matter of the rulemaking hearing to provide testimony, evidence and exhibits.

4. All Commissioners were present at the public hearing. All Commissioners analyzed and considered all the evidence presented during the hearing, including the proposed rule changes submitted by the parties. The Commission deliberated at a public hearing on June 10, 2021 and adopted the proposed rule changes as stated above.

5. The Commission concludes that there is substantial evidence in the record to support the proposed rule changes and the Commission's revisions thereto, that the proposed rule changes are within the authority of the Commission under the Oil and Gas Act and are reasonable and further the goals of the Oil and Gas Act.

IT IS THEREFORE ORDERED THAT:

The proposed rule changes to 19.15.29.6, 19.15.29.8 and 19.15.29.15 NMAC are hereby approved by the Commission. The adoption of the rule changes will be final upon the latter of (a) the action, or deemed action, of the Commission on a rehearing application filed pursuant to NMSA 1978, § 70-2-25, or (b) twenty (20) days from the date of this order if no rehearing application is filed. The rule changes shall not be filed with the state records administrator until this order adopting the rule changes is approved by the Commission; then the rule changes must be filed within fifteen (15) days after the adoption. If no rehearing is required by the Commission, this Order shall serve as the "concise explanatory statement" required by NMSA 1978, § 14-4-5.5 (2017).

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DONE at Santa Fe, New Mexico, on this 8th Day of July 2021.

STATE OF NEW MEXICO
OIL CONSERVATION COMMISSION

Terry J Warnell

TERRY WARNELL, MEMBER

Gregory B. Bloom

GREGORY BLOOM, MEMBER

ADRIENNE SANDOVAL, M.E., CHAIR

SEAL

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Attachment: Points of Contact

Each Party hereby designates the following contacts as the primary points of contact, which contacts may be changed at the participating Party's discretion upon notice to each of the other Parties.

DOI, OEPC: Stephen Tryon (stephen_tryon@ios.doi.gov)

DOI, BLM: Ted Murphy (t75murph@blm.gov)

DOI, BIA: Albert Bond (dale.bond@bia.gov)

DOI, FWS: Cynthia Martinez (cynthia_martinez@fws.gov)

DOI, NPS: Stephanie Gaswirth (stephanie_gaswirth@nps.gov)

DOI, BSEE: Staci King (staci.king@bsee.gov)

DOI, Reclamation: Bobby McGough (bmcgough@usbr.gov)

DOI, USGS: Sarah Ryker (sryker@usgs.gov)

USDA, Forest Service: Paul Johnson (paul.johnson2@usda.gov)

DOE:

EPA: Melissa Weitz (Weitz.Melissa@epa.gov)

IOGCC: Lori Wrotenbery (lwrotenbery@iogcc.state.ok.us)

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Memorandum of Understanding
Between
The Department of the Interior;
And
The Department of Agriculture;
And
The Department of Energy;
And
The Environmental Protection Agency;
And
The Interstate Oil and Gas Compact Commission
on
Orphaned Well Site Plugging, Remediation, and Restoration

I. Purpose

This Memorandum of Understanding (MOU) establishes a framework within which the Parties intend to work together to implement the Orphaned Well Site Plugging, Remediation, and Restoration program (Orphaned Well Program) established by Section 40601 of the Infrastructure Investment and Jobs Act (IIJA) to create good-paying jobs and address the environmental harms caused by orphaned wells.

II. Background

Orphaned wells, either unplugged or improperly plugged, can leak methane and other harmful air pollutants into the atmosphere, leach contaminants into surrounding lands and waters, create safety hazards on the ground, and prevent lands from being used for recreation or other productive purposes. Addressing the environmental harms caused by orphaned wells requires the cooperation and collaboration of numerous agencies across the whole of government.

The IIJA, a once-in-a-generation investment in our Nation's infrastructure and competitiveness, was signed into law on November 15, 2021. Among its many goals are tackling the climate crisis, advancing environmental justice, and investing in communities that have too often been left behind. To help achieve these goals, the IIJA established the Orphaned Well Program, which includes a Federal program for addressing orphaned wells on Federal Land and a grant program for States and Tribes to establish or grow and manage their own orphaned well plugging, remediation, and restoration programs.

III. Parties

The Department of the Interior (DOI); As the United States' largest Federal Land Manager, DOI manages approximately 420 million acres of federal lands, nearly 55 million acres of tribal lands, and about 2.5 billion acres of the Outer Continental Shelf. The Bureau of Land Management, U.S. Fish & Wildlife Service, National Park Service, and Bureau of Reclamation all manage

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lands that contain orphaned wells, and the Bureau of Safety and Environmental Enforcement is responsible for orphaned wells and infrastructure on the Outer Continental Shelf. DOI manages those lands to sustain their health, diversity, and productivity for the use and enjoyment of present and future generations. The United States also has a trust responsibility to Indian Tribes. In most instances, the Bureau of Indian Affairs and other DOI bureaus are responsible for assisting Tribes in the management, development, and protection of Indian land and natural resources.

The U.S. Department of Agriculture (USDA); The USDA provides leadership on food, agriculture, and natural resources related issues based on public policy, the best available science and effective management. As the managers of the nation's roughly 193 million acres of national forest system, the United States Forest Service's mission is to sustain the health, diversity, and productivity of the nation's forests and grasslands. The plugging and remediation of orphan well sites on National Forest System lands addresses agency priorities to remediate and reduce legacy pollution, protect watersheds by removing potential sources of contamination of clean water, reduce greenhouse gas emissions, promote inclusion by providing safe access for all recreationalists, and potentially provide jobs and other economic benefits to underserved communities.

The Department of Energy (DOE); DOE's mission is to ensure America's safety and security by addressing its energy and environmental challenges through transformative science and technology. The Department catalyzes the transformative growth of basic and applied scientific research, the discovery and development of new clean energy technologies, and prioritizes scientific innovation as a cornerstone of U.S. economic prosperity. DOE also plays a leadership role in facilitating an equitable clean energy transition, including supporting the potential for repurposing existing fossil assets for the new clean energy economy. Further, DOE received funds under the IIJA to assist, in particular, in identifying and characterizing undocumented orphan wells and in detecting and measuring methane releases from such wells.

The Environmental Protection Agency (EPA); The EPA's mission is to protect human health and the environment. It leads national efforts to reduce environmental risks based on the best available scientific information; ensure environmental stewardship is integral to US policies concerning natural resources, human health, and energy; and that contaminated lands and toxic sites are cleaned up. EPA collects and reports greenhouse gas and other emissions data.

The Interstate Oil and Gas Compact Commission (IOGCC); The IOGCC is a multi-state government entity that is passionate about advancing the quality of life for all Americans by ensuring the responsible development of our nation's oil and natural gas resources while protecting health, safety, and the environment. The IOGCC provides its members with a clear and unified voice on issues surrounding these resources, assists states in balancing a multitude of interests through sound regulatory practices, and offers a highly effective forum for sharing information and viewpoints.

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IV. Authorities

The Energy Policy Act of 2005, 42 U.S.C.A. § 15907, as amended by the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, Title VI – Methane Reduction Infrastructure (Nov. 15, 2021).

V. Definitions

The terms Federal land, Idled Well, Indian Tribe, Operator, Orphaned Well, and Tribal land are used here consistent with the definitions in 42 U.S.C.A. § 15907(a) and are defined below.

Environmental reviews refer to those reviews, analyses, and consultations conducted to comply with the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), National Historic Preservation Act (NHPA), and other applicable environmental statutes.

Federal land means land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

Federal Land Managers refers to the Bureau of Land Management (BLM), United States Fish and Wildlife Service (FWS), National Park Service (NPS), Bureau of Indian Affairs (BIA), Bureau of Safety and Environmental Enforcement (BSEE), Bureau of Reclamation (Reclamation), and United States Forest Service (USFS).

Idled well means a well that has been nonoperational for not fewer than 4 years and for which there is no anticipated beneficial future use.

Indian Tribe has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act, 25 U.S.C. § 5304.

Operator, with respect to an oil or gas operation, means any entity, including a lessee or operating rights owner, that has provided to a relevant authority a written statement that the entity is responsible for the oil or gas operation, or any portion of the operation.

Orphaned well with respect to Federal land or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring; and

- for which no operator can be located;
- the operator of which is unable to plug the well and to remediate and reclaim the well site; or
- that is within the National Petroleum Reserve–Alaska.

Orphaned Well with respect to State or private land, has the meaning given the term by the applicable State; or if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

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Tribal Land, for the purposes of the Orphaned Well Program and this MOU, means any land or interest in land owned by an Indian Tribe, the title to which is held in trust by the United States, or which is subject to a restriction against alienation under Federal law.

VI. Framework and Responsibilities

To achieve the goals of the Orphaned Well Program, the Parties resolve to leverage their capabilities, resources, and expertise and provide leadership and commitment to foster a culture of collaboration and partnership internally and externally. Efficient and successful implementation of the Orphaned Well Program requires establishment of workgroups to coordinate funding, reporting, and sharing of expertise. To the extent authorized by law and consistent with applicable regulations, agency management objectives, and available funding, the Parties agree to participate in and support the following organizational framework and responsibilities:

A. Federal Program Executive Group (EG)

The Orphaned Well Program establishes a Federal program for the plugging, remediating, and reclaiming of orphaned wells and associated facilities on Federal Land. An Executive Group (EG) is hereby established to provide executive level oversight and ensure the successful implementation of the Federal program. The Deputy Secretary of DOI and Deputy Secretary of USDA will serve as co-chairs. At the discretion of the co-chairs, the EG may draw on separate Assistant Secretary, Undersecretary, or bureau/office/agency representation as appropriate.

1. Membership in the EG consists of:
    a. DOI, Assistant Secretary – Land and Minerals Management;
    b. DOI, Assistant Secretary – Fish, Wildlife and Parks;
    c. DOI, Assistant Secretary – Indian Affairs;
    d. DOI, Assistant Secretary – Water and Science;
    e. DOI, Assistant Secretary – Policy, Management, and Budget; and
    f. USDA, Undersecretary for Natural Resources and Environment.
    g. BLM, Director – *non-voting member*

2. Roles and Responsibilities. The EG will:
    a. meet as necessary, but no less frequently than bi-annually;
    b. determine the amount of funding provided to each eligible bureau/office/or agency, emphasizing geographic and agency equity toward achieving the goals of the Orphaned Well Program; and
    c. oversee and approve the annual reports to Congress describing the Federal program and grants awarded under the Orphaned Well Program. The reports will include:
        i) an updated inventory of wells located on Federal Land, Tribal land, and State and private land that are orphaned wells or at risk of becoming orphaned wells;
        ii) an estimate of the quantities of methane and other gases emitted from orphaned wells, and emissions reduced as a

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result of plugging, remediating, and reclaiming orphaned wells;

iii) the numbers of jobs created and saved through the plugging, remediation, and reclamation of orphaned wells; and

iv) the acreage of habitat restored using grants awarded to plug, remediate, and reclaim orphaned wells and to remediate or reclaim adjacent land, together with a description of the purposes for which that land is likely to be used in the future.

B. Federal Program Technical Working Group (TWG)

A Technical Working Group (TWG) is established to provide input and recommendations to the EG, to coordinate funding and overarching program objectives, and to share best practices and technical expertise for implementing the Federal Program.

1. Membership.
   a. The TWG will be led by BLM, and its membership will consist of a representative from each of the other Federal Land Managers.
   b. Representatives of the DOI - Office of Environmental Policy and Compliance (OEPC), U.S. Geological Survey (USGS), the Bureau of Indian Affairs – Indian Energy Service Center, EPA, and DOE are included as consulting members.
   c. Other agencies may also be included, as deemed appropriate by BLM as the group lead.

2. Roles and Responsibilities. The TWG will:
   a. meet as often as necessary, but no less frequently than monthly for the first six months after this MOU is signed, and no less frequently than quarterly thereafter;
   b. develop a method or methods to identify, characterize, and inventory orphaned wells and associated pipelines, facilities, and infrastructure;
   c. develop a method to prioritize and rank orphaned wells for plugging, remediating, and reclaiming based on public health and safety, ongoing and potential environmental harm, emissions of methane and other harmful air pollutants, proximity to disadvantaged or underserved communities, potential for increased risk due to climate change, and other subsurface impacts or land use priorities, including consideration of state or Tribal plans or priorities for orphaned wells on state, private, or Tribal lands;
   d. recommend distribution of funding on an annual basis to the EG, in accordance with priorities established to plug, remediate, and reclaim wells, well pads, and facilities, including remediating soil and restoring native species habitat as well as land adjacent to orphaned wells;
   e. develop procedures and share best practices to prioritize and accelerate applicable environmental reviews;

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f. share innovative approaches, best practices, and technical expertise to address the environmental harms caused by orphaned wells;
g. establish procedures and a process for monitoring use of funds in accordance with applicable regulations, and provide public accounting of the costs;
h. establish procedures and a process to ensure any financial assurances are used, potentially responsible parties are identified, and efforts are made to obtain reimbursement for expenditures;
i. develop means to measure and track the impacts of orphaned well plugging, reclamation, and remediation on:
    i) emissions of methane and other harmful air pollutants; and
    ii) contamination of groundwater or surface water;
j. identify and make recommendations for addressing any disproportionate negative impacts of orphaned wells and associated facilities on disadvantaged and underserved communities as identified in Executive Order 14008 and 13985;
k. identify opportunities to coordinate with states and Tribes on the plugging, reclamation, and remediation of orphaned wells and associated facilities to improve efficiencies, stimulate job creation, reduce methane emissions, leverage program funding, and minimize per-well costs;
l. identify and recommend areas for federal and non-federal research that would most effectively further the goals of the Orphaned Well Program;
m. engage with stakeholders and the private sector on a regular basis to obtain input on the operation of the program and explore opportunities to leverage program funding;
n. prepare the annual reports for review and approval by the EG;
o. work cooperatively with affected Indian Tribes and each State within which Federal Land is located;
p. identify tools and develop practices for tracking the inventory of wells located on Federal or Tribal land that are orphaned or at risk for becoming orphaned;
q. create additional subgroups as necessary to accomplish the goals of the IIJA and this MOU; and
r. conduct consultations with the IOGCC on the Federal Program, in accordance with Section 349(b)(4)(B) of the Energy Policy Act of 2005, as amended. As part of the consultation process, the TWG will work with the IOGCC to develop reporting templates and best practices to facilitate fact-gathering and reporting throughout the entirety of the Orphaned Well Program.

C. State Grant Program

In addition to the Federal Program, the Orphaned Well Program also establishes Federal funding in the form of grants for States to grow and manage their own orphan well plugging, remediation, and restoration programs (State Grant Program). The OEPC manages the

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implementation of the State Grant Program on behalf of DOI. The State Grant Program consists of Initial, Formula, and Performance grants.

1. In determining the eligibility of a State to receive Formula or Performance grants, OEPC will consult with the EPA, DOE, and IOGCC.

2. OEPC, EPA, DOE, and IOGCC agree to meet as necessary, but no less frequently than annually, for the purpose of determining State grant eligibility.

3. OEPC will compile the applicable grant information for the annual reports required in the IIJA and submit the information to the TWG for compilation and submission to the EG.

4. In managing the State Grant Program, OEPC will regularly consult with BLM and the USFS on the operation of the program, including coordinating to the maximum extent feasible with activities in the Federal Program and Tribal Grant Program.

D. Tribal Grant Program

The IIJA also establishes a Tribal Grant Program. The OEPC, in consultation with the BIA and BLM, manages the implementation of the Tribal Grant Program on behalf of DOI.

1. In determining the eligibility of a Tribe to receive a grant, OEPC will consult with the BIA and BLM and consider:

   a. the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application for a grant; and
   b. the estimated number of orphaned wells on the Tribal land of the Indian Tribe.

2. On request of a Tribe, DOI may enter into contracts to plug, remediate, and restore orphaned wells and associated disturbances on the Tribe's land (In-Lieu Tribal Grant Program).

3. OEPC will compile the applicable grant information for the annual reports and submit the information to the TWG for compilation and submission to the EG.

4. The BLM, OEPC, and BIA, and other agencies as necessary, will attempt to coordinate plugging and reclamation activities on Tribal land to the maximum extent possible with similar activities on Federal, state, and private land.

VII. Contacts

This MOU includes an attachment that supports enhanced coordination among the Agencies. This attachment, entitled "Points of Contact," lists respective points of contact for implementation of this MOU. Any updates to the attachment will be entitled, "Updated Points of

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Contact," with version date. Such updates to the attachment will not constitute material changes to this MOU and, as such, will not require that the MOU itself be updated. Instead, the "Updated Points of Contact" will become the operative attachment.

VIII. General

Nothing in this MOU is intended, nor may be construed, to limit or in any way affect the legal obligations and powers of the Parties. The Parties will comply with all applicable laws, and to the extent this MOU conflicts with applicable law, the applicable law controls.

This MOU does not, nor is it intended to, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States or any of the Parties, their Departments, agencies, or entities, their officers, employees, or agents, or any other person.

A. Effective Date and Period of Performance

This MOU is effective upon the date of the last signature of the Parties. It shall remain in effect for a period of 10 years unless amended or canceled by any Party.

B. Modifications, Interpretations and Terminations

This MOU may be extended, amended, or modified at any time by mutual consent of all the Parties. Any extensions, amendments, modifications, or corrections of this MOU will be in writing, at least 90 days prior to implementation of the requested change, and will become effective upon the date of the last signature of the Parties.

Any Party may terminate their participation in this MOU at will. Written notice of termination to all the other Parties will be provided no less than 90 days prior to termination. Such an action is within the sole discretion of the notifying Party.

C. Subsequent Implementing Documents

Subsequent to the effective date of this MOU, additional agreements, charters, or workplans may be prepared for the purposes of outlining more specific relationships and responsibilities. Any such agreements will be executed in writing separately and will reference and incorporate the terms of this MOU to the extent necessary or appropriate.

D. Dispute Resolution

Any disputes relating to this MOU will, subject to any applicable law, executive order, directive, or instruction, be resolved by consultation between the Parties at the lowest level of the organization. If disputes are unable to be resolved at the lowest level, the disputes will be elevated to the next level prior to being elevated to the EG. The Secretary of the Interior will have final decision-making authority over any disputes.

E. Funding

This MOU is subject to the availability of appropriations. Within budgetary constraints, the Parties commit to maintain adequate staffing and resources to participate and implement the provisions of this MOU. The MOU does not and should not be construed as an obligation or commitment of transfer of funds. Each Party will bear its own costs resulting from the

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responsibilities under the MOU. Any agreements to obligate or transfer funds will be executed in writing in separate agreements and in accordance with applicable fiscal and contracting laws and regulations, including the proper administrative review prior to obligation of those funds. Any such subsequent contract or funding agreements should reference and incorporate the terms of this MOU.

F. Information Requests

To the extent permissible by each Party's applicable Freedom of Information Act (FOIA) regulations, in the event a Party receives a FOIA request for records related to the subject of this MOU, the agency receiving the request will:

(a) to the extent practicable, consistent with FOIA obligations: attempt to coordinate with other Parties before disclosing responsive records that originated with one of the other Parties; and provide notice to the Party with whom the record originated when the records are released; and

(b) refer the responsive records to the other Parties for processing when the responsive records originated with one of the other Parties.

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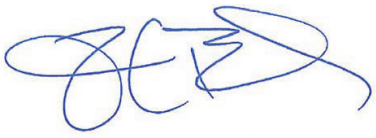
IX. Signatures

APPROVED:

For the UNITED STATES DEPARTMENT OF THE INTERIOR



Honorable Tommy Beaudreau, Deputy Secretary
U.S. Department of the Interior

Date: **01/14/2022**

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APPROVED:

For the UNITED STATES DEPARTMENT OF AGRICULTURE

Jewel Bronaugh Digitally signed by Jewel Bronaugh
Date: 2022.01.14 12:46:32 -05'00'

Honorable Dr. Jewel Bronaugh, Deputy Secretary
U.S. Department of Agriculture

Date: 01/14/2022

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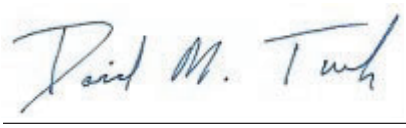
APPROVED:

For the UNITED STATES DEPARTMENT OF ENERGY



Honorable David M. Turk, Deputy Secretary
U.S. Department of Energy

Date: 01/14/22

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APPROVED:

For the UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

JANET MCCABE Digitally signed by JANET MCCABE
Date: 2022.01.14 08:39:05 -05'00'

Honorable Janet McCabe, Deputy Administrator
U.S. Environmental Protection Agency

Date: 1/14/22

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APPROVED:

For the INTERSTATE OIL AND GAS COMPACT COMMISSION



Honorable J. Kevin Stitt, Governor of Oklahoma
Chair
Interstate Oil and Gas Compact Commission

Date: 1/13/2022

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NM-EMNRD-22-0512-B-001370

UNDOCUMENTED ORPHANED WELLS WORKSHOP

Date: April 5, 2022

Time: 12 PM EST – 4 PM EST

AGENDA

12:00 PM	**Welcome and Overview of DOE FECM Undocumented Well Program** Dr. Jennifer Wilcox, Principal Deputy Secretary and Acting Assistant Secretary Office of Fossil Energy Carbon Management, U.S. Department of Energy
12:15 PM	**Environmental Defense Fund** Adam Peltz, Environmental Defense Fund
12:30 PM	**Independent Petroleum Association of America** Ryan Ullman, Vice President of Government Relations IPAA
12:40 PM	**Overview of DOI Documented Well Plugging Program & Data Collection** Greg Nottingham, U.S. Department of Interior Alicia Lindauer, U.S. Department of Interior, United States Geological Survey
1:00 PM	**IOGCC & State Representation across the United States** Lori Wrotenbery, Interstate Oil and Gas Compact Commission Kurt Klapkowski, Acting Deputy Secretary for Oil & Gas Management for the PA DEP
1:20 PM	**Technical Session #1: Defining the Need for Undocumented Orphaned Well RDD&D** Natalie Pekney, National Energy Technology Laboratory
1:55 PM	**Break**
2:10 PM	**Technical Session #2: Undocumented Well Finding Technologies** Brian Wihl, Lawrence Livermore National Laboratory
2:45 PM	**Technical Session #3: Undocumented Well Characterization Technologies** Sebastien Biraud, Lawrence Berkeley National Laboratory
3:20 PM	**Technical Session #4: Outcomes (Framework, Best Practices) Strategy** Chester Weiss, Sandia National Laboratory
3:55 PM	**Closing Remarks** Bill Carey, Los Alamos National Laboratory
4:00 PM	**Adjourn**

NM-EMNRD-228512-B-001371

Subject: OXY Amended Reports Follow up
Location: Microsoft Teams Meeting

Start: Wednesday, May 11, 2022 11:00 AM EDT
End: Wednesday, May 11, 2022 12:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Polak, Tiffany, EMNRD
Required Attendees: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Garcia, John A, EMNRD <JohnA.Garcia@state.nm.us>; Smith, Cory, EMNRD <Cory.Smith@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Yolanda Perez (yolanda_perez@oxy.com) <Yolanda_Perez@oxy.com>; Montgomery, Kelley A <Kelley_Montgomery@oxy.com>
Optional Attendees: Zuniga, Erica E <Erica_Zuniga@oxy.com>; Hadley, Doug S <Doug_Hadley@oxy.com>

Yolanda and Kelley – Please forward to those on your team you would like to attend.

Microsoft Teams meeting

Join on your computer or mobile app
Click here to join the meeting

Or call in (audio only)
+1 505-312-4308,,41157590# United States, Albuquerque
Phone Conference ID: 411 575 90#
Find a local number | Reset PIN

Learn More | Meeting options

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The Council of Regulatory Officials Special Meeting: Contracting Practices for Regulators Roundtable

Wednesday, February 16, 2022

12:00 PM – 1:30 PM CT

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INTERSTATE Oil & Gas COMPACT COMMISSION

Program Moderator:
Dave Hardie, Chair, IOGCC Council of Regulatory Officials

For technical support during this webinar contact Kaitlyn Smith at Kaitlyn.smith@iogcc.state.ok.us

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INTERSTATE Oil&Gas COMPACT COMMISSION

Case Studies:

Alberta, Lars DePauw, Executive Director, Orphan Well Association

Colorado, Eric Nickell, Buyer, Orphan Well Program, COGCC

Kansas, Ryan Hoffman, Director, Kansas Corporation Commission

Michigan, Adam Wygant, Director and State Geologist Oil, Gas, and Minerals Division Department of Environment, Great Lakes Energy

Oklahoma, Brad Ice, Field Operations Manager Oklahoma Corporation Commission

Texas, Patrick Shelton, Attorney, and Jesse Herrera, Contract Administration Manager, Railroad Commission of Texas

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INTERSTATE Oil & Gas COMPACT COMMISSION

Orphan Well Association



IOGCC Roundtable
February 16, 2022

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The Alberta Orphan Well Association (OWA)

- **OWA manages all work on Orphan properties in Alberta (100% Working Interest only)**
- **The OWA is a delegated authority of the Alberta Energy Regulator**
  - But isn't a government organization
- **Mandate of the organization:**
  - Safe and ***efficient*** closure of sites
- **Procurement practices are meant to be fair and inclusive but do not follow requirements similar to government organizations**
  - They are at the discretion of the OWA to maximize our efficiency

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Orphan Well Association

Orphan Well Association

The Alberta Orphan Well Association (OWA)

- **OWA has received two interest free loans (not grants) - $535 million (CAN)**
  - Province of Alberta
    - $335 million total (2017 and 2020 amendment)
  - Government of Canada
    - $200 million (2020)
- **AER issues an annual levy on all producers in Alberta (transferred to OWA)**
  - $70 million (2021)
- **Annual Expenditures and work completed:**

	2019/20	2020/21	2021/22 (budget)
Expenditures	$114mm	$172mm	$218mm
Wells Abandoned	982	1,922	2,000
Sites Reclaimed	380	1,144	1,700

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Orphan Well Association

Orphan Well Association

Structure for OWA

- **Field work is conducting using "Area Based Closure" focus to maximize efficiencies**
- **OWA Staff – 30 individuals (project managers). OWA oversees work of Prime Contractors**
- **OWA contracts all field work to ~25 Prime Contractors**
  - Also used ~1,500 subcontractors in last 5 years
- **Procurement of subcontractors is conducted by Prime Contractors and approved by OWA**
  - Have tried multiple alternative ideas to improve efficiencies
- **OWA has contracts with our Prime Contractors only but pays Subcontractors directly**
  - No mark-up of invoices

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Orphan Well Association



High Performance Procurement and Contracting for Orphaned Well Work

for IOGCC's Roundtable on Contracting Practices

Feb 16, 2022

COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

Eric Nickell
Buyer, Orphaned Well Program

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NM-EMNRD-22-0512-B-001380

Agenda

- Shed Paper (e.g., Contract Documents)
- Decentralize Bid Work
- Your Questions

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Contracting Orphaned Well Projects

- Colorado requirements for $150K and larger contracts
  - Three signatures minimum
    - One from State Oil and Gas Regulator
    - One from Contractor
    - One from State Government Controller
  - Executed (signed) project bonds
    - Performance
    - Labor and materials



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Solution: Document Signing Software

- Contract turnaround time
  - Uses email addresses and contract page views
  - Signing available on all devices, from any location
  - Contract routing timeframe decreased from 21-35 days to 0.5-10 days
- Wet ink contract routing expense
  - Staff time no longer dedicated to shipping docs overnight
  - Shipping fees of 2 x ~$12 reduced to ~$4 per DocuSign e-contract



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Benefit to Orphaned Well Program

- Contractors mob to field ~3 weeks sooner on projects governed by contracts
- Contract reissuance rate now below 5%
  - Most common error is replacing a specific Contractor signatory with another name
- Program completes more projects each year
  - Appropriations are more fully spent
- Additional efficiency if project bonds go to 100% digital signatures



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Bidding Orphaned Well Projects

- Colorado requires competitive low bidder selection for construction projects valued above $25K
- Oil and gas regulator is part of a large department of 1,520 year round employees and a $335M annual budget
- Busy central procurement staff at department level conduct bids for smaller programs



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Solution: Delegate Bidding Authority

- IIJA grants projected to double or triple Orphaned Well Program bid volume
- In early 2021, central procurement staff delivered training to finance staff within the oil and gas regulator
  - Approx 8-10 hours total training time over 3 months
- Delegated, trained staff close to the Orphaned Well Program now conduct bids and make awards valued at $300K-$900K each



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Benefit to Orphaned Well Projects

- Bid turnaround times
  - Technical and finance staff within the oil and gas regulator possess a common document system and oil and gas knowledge base
  - Project planning to bid award timeframe has shortened from 12-15 weeks to 10-12 weeks
  - Central procurement staff periodically review bid files and always approve contract with low bidder
- Contractors mob to field ~2 weeks sooner on larger projects that must be bid
- Program completes more projects each year



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COLORADO
Oil & Gas Conservation Commission
Department of Natural Resources

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Abandoned Well Plugging Contracting Practices

IOGCC Roundtable February 26, 2022

Ryan A. Hoffman, Director, Conservation Division

Kansas
Corporation Commission

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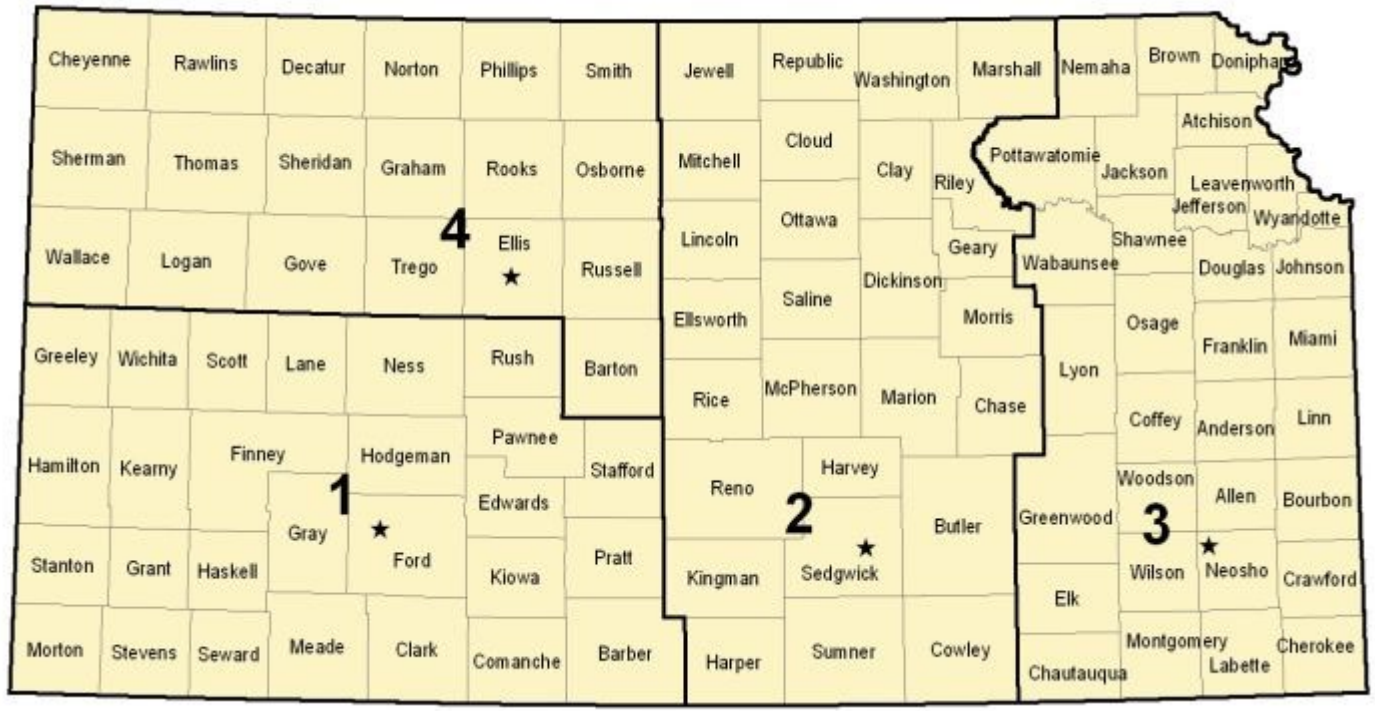
Past



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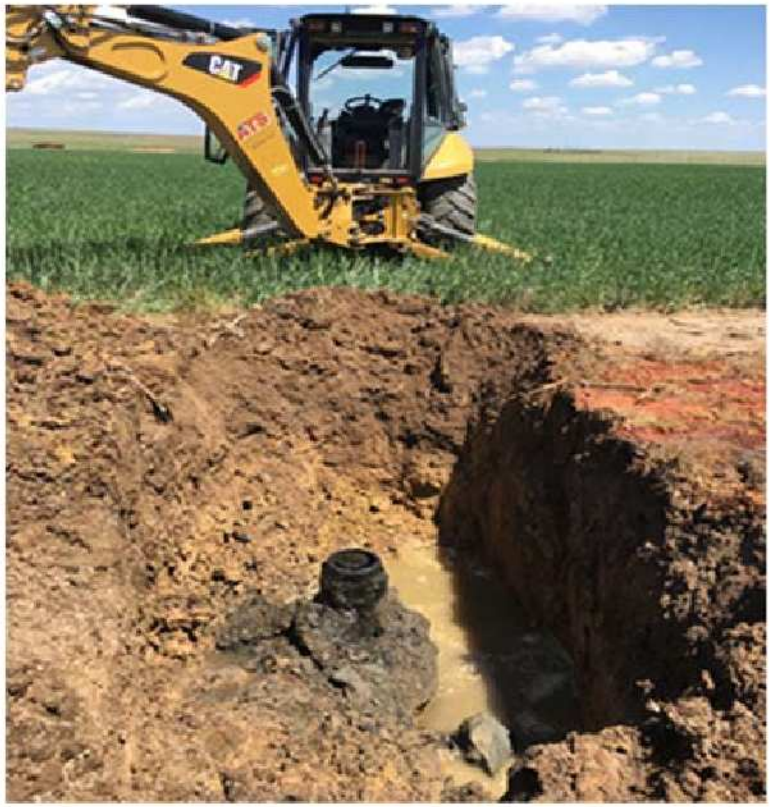
Past





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Present

- Fixed

Company Name		
DRILLING SERVICES		
Pulling Unit:	$	*per hour*
Mud Rotary Unit:	$	*per hour*
Pump and Power Swivel Unit:	$	*per hour*
Wash Down Pump:	$	*per hour*
WIRELINE SERVICES		
Perforate (Initial Run):	$	*per run*
Perforate (Subsequent Runs):	$	*per run*
Shooting Off (Initial Run):	$	*per run*
Shooting Off (Subsequent Runs)	$	*per run*
WATER HAULING SERVICES		
Vacuum Truck:	$	*per hour*
DIRT SERVICES		
Backhoe:	$	*per hour*
Dozer:	$	*per hour*
Winch Truck:	$	*per hour*

- Task Order
  - Mobilization Charge
  - Contract Supervision
  - Tubing Rental
  - Skid Steer, Mini Excavator, Track Hoe
  - Cement
  - Other Miscellaneous
- ***DISCOUNTS***

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Future

- Blast from the Past?
  - Firm contract prices are not flexible enough
  - More vendors on contract, but only a few will do the work
- Re-re-doing the Contract
  - Cancel all contracts
  - More meetings – focus on ability to discount
  - Plugging reimbursement regulations



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Thank You!

Kansas Corporation Commission

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The Oklahoma Corporation Commission's (OCC)

Oil and Gas Conservation Division (OGCD)

165:10-11-6. Plugging and plugging back procedures

(a) **Scope.** This Section establishes minimum standards for plugging and plugging back wells.

The use of OCC State Funds requires the following:

- The last known operator is out of business with no valid surety or means to plug the well(s).
- Must have an order from an OCC Administrative Law Judge(ALJ).
- Order must be signed by the OCC Commissioners.

The new State Funds Solicitation was first implemented by the OGCD in early 2020. A new solicitation is being worked on currently to streamline the process even further. This has increased the ability of the Oklahoma Oil and Gas Conservation Division (OGCD) to:

- Have the ability to change the price awarded to plug the well(s) up or down depending on what is found in the wellbore.
- This has added more pluggers to the vendor's list.
- Staff sends the offer to the plugger who has 5 days to accept or decline the offer to plug a well(s).
- Once the offer is accepted plugger will receive an award letter and has 60 days to plug the well(s).
- Pluggers will email the District Managers when they have a rig(s) free and additional wells will be sent to the plugger to be accepted or declined and the wells again are required to be plugged in 60 days.
- This allows the pluggers to work for their regular customers (industry) with the ability to plug state wells also.
- Several pluggers have stated they are willing to dedicate a rig to state funds plugging only since this has been implemented.

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ATTACHMENT A

SOLICITATION NO. [0900000525]

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services, as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

The contract is awarded as a statewide contract for well-plugging services across the State of Oklahoma.

1. Contract Term and Renewal Options

The initial contract term, which begins on the effective date of the Contract, is one (1) year. There are four (4) options to renew the contract with renewal terms of one (1) year, as specified at the time of renewal.

2. Contract Obligations

In addition to obligations in other Contract documents, certain Supplier obligations are set forth below in Exhibit 1.

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DRAFT

Exhibit 1

A. The Supplier shall:

1. Maintain a daily work log showing all work performed and cost(s) encumbered for each day for the subject well(s).

2. Submit the following documents to the appropriate Oklahoma Corporation Commission ("Commission") district office within 30 days after the subject well(s) is/are plugged:

   a) Invoice.
   b) Daily work log.
   c) Form 1003 - Plugging Record.
   d) Photo of wellbore cut off 3' below ground level with ID plate welded on; and
   e) Photo of the hole backfilled.

3. Obtain all requisite approval(s) from the individuals listed in 3(a) below, for any and all costs that are in excess of the original estimated dollar amount to plug the subject well(s). Such approvals to increase the cost to plug the subject well(s) are intended to address unknown obstacles within the wellbore(s) or getting rigs and equipment to the well site(s) that were not foreseen at the time the estimate was given prior to beginning work on the subject wellbore(s). The estimated cost, as circumstances are encountered during plugging, must be approved by the following individuals:

   a) Commission District Manager

4. Utilize the specifications for plugging based upon the information contained on Commission Form 1002A. Form 1002A may be accessed here:

   http://www.occeweb.com/og/OGforms/form%201002A.XLS.

   In the case of unknown wells, the general information of the area should be included/provided

5. Perform on-site inspection(s) for each well to be plugged.

6. Comply with license requirements as set forth in **OAC 165:10-11-1**.

7. Be a registered vendor with OMES and be on the vendor list.

B. Process for Selection of well-plugging projects by the Commission Oil & Gas Division ("OGCD"):

- The OGCD will email an offer letter to the Supplier for the plugging of well(s). Once the first well(s) are accepted or declined the Supplier will contact the OGCD at the appropriate District Office email listed below-to let the OGCD District Office know

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that the Supplier is ready to receive the next offer letter(s) as long as the well(s) can be plugged in the allotted time frame in B. 7. of this section and it will continue until this contact has expired.

- District 1 OGBristowOffice@occ.ok.gov
- District 2 OGKingfisherOffice@occ.ok.gov
- District 3 OGDuncanOffice@occ.ok.gov
- District 4 OGAdaOffice@occ.ok.gov

- After the initial offer, the Suppliers must email the OGCD District Office in the areas the Supplier wishes to work when they have a rig available and can have the well(s) plugged within the allotted time frame in B. 7. of this section.

1. Plugging costs will be based upon the OGCD's cost estimate for such work based on a well by well basis as determined by each district.

2. Any Supplier selected for a well(s) plugging project will have five (5) business days from the date of receipt of the offer to either accept or reject the offer in writing by emailing the OGCD at the following email address: OGStateFunds@occ.ok.gov

3. If a qualified Supplier accepts the offer, the OGCD will issue an award letter to the Supplier via email. The Supplier can not start plugging until the award letter is received.

4. A Supplier receiving an award letter for any well(s) plugging project will have sixty (60) days after receipt of the award letter to plug the subject well(s) or have a rig on site with plugging operations underway, this also counts for multi-well packets. As long as the first well was started and there is continues work being performed the award will not expire. An additional 30 days may be approved by the appropriate District Manager for weather, well problems, or other unforeseen issues that are out of the Supplier's control. The Supplier must email the request for the 30-day extension to the appropriate District Manager before the original 60 days expire.
   Any costs in excess of the original estimate must follow Section A3 as set forth above. In the event that the subject well(s) is/are not plugged within the requisite sixtey (60) days, the subject well(s) will be offered to the next Supplier.

5. Any Supplier or affiliate of a Supplier with an OGCD enforcement cause filed with the Court Clerk ("Complaint") will not be eligible to accept any State Funds plugging offers until the cause has been closed.

6. Any Supplier that violates any of the performance terms in this Exhibit 1, including, but not limited to, incomplete work, fieldwork that does not meet minimum standards or does not meet outlined deadlines for submitting reports and claims, will be excluded from consideration for any future State Funds Plugging offers and payment may be adjusted, in the sole discretion of the OGCD, for insufficient work.

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Contracting Strategies to Enhance Competition, Efficiency, and Operational Flexibility

Patrick Shelton & Jesse Herrera
February 2022



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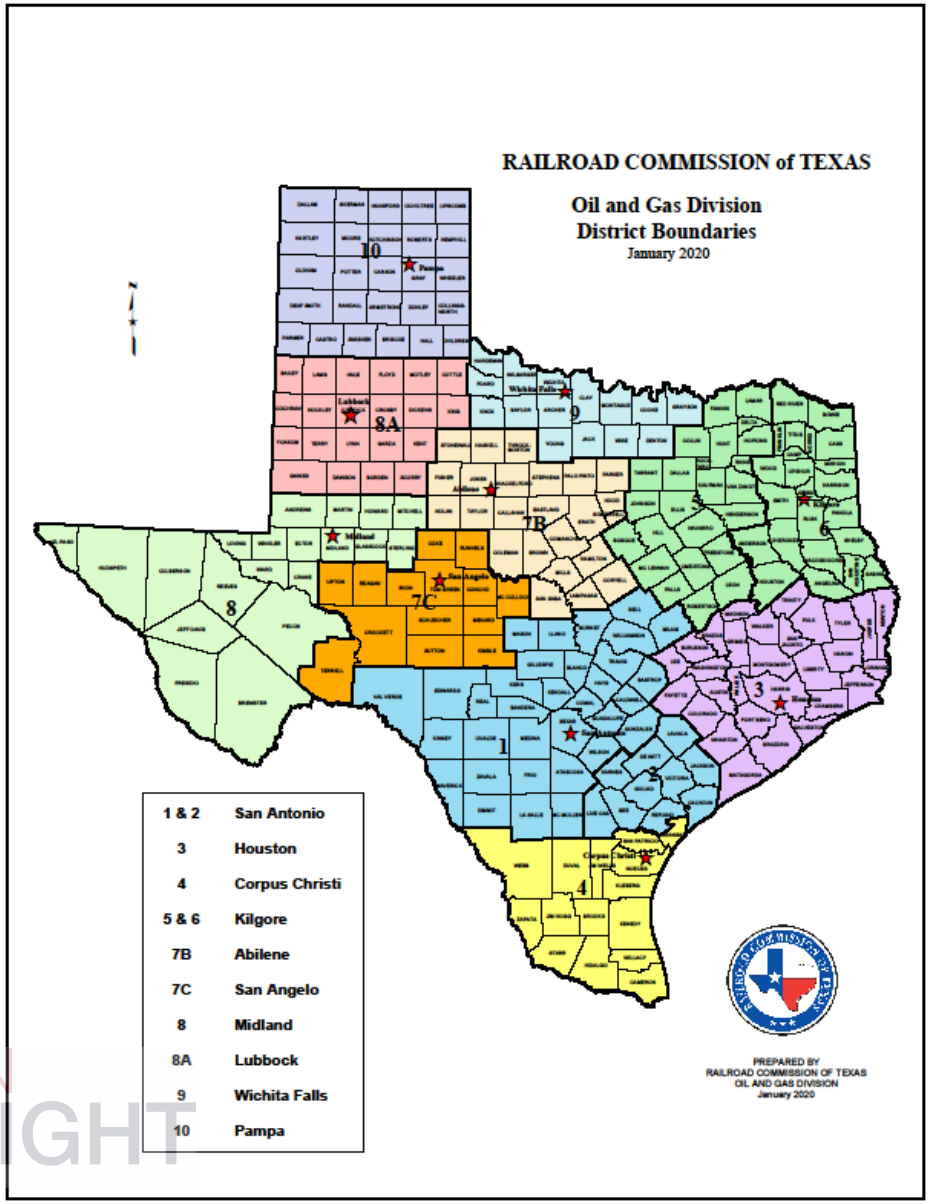
RRC Overview



Introduction to RRC

- The Railroad Commission is the oldest regulatory agency in Texas. Established in 1891, it is one of the oldest of its kind in the U.S.
- The RRC's Oil and Gas Division is organized into 12 Districts, with oversight from 10 District Offices.
- The RRC State Managed Well Plugging Program was established in 1984 and has successfully plugged 42,585 wells across the state.

NM-EMNRD-22-0512-B-001400

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Pre 2016 Paradigm: Contracting

- Contracting Decentralized to RRC Districts:
  - Request for Proposal format
  - One District, One Contractor

- Challenges:
  - Nonexclusive Service Contracts. Contractors sometimes unavailable and engaged in other work
  - Regional Variations in labor and supply costs across RRC Districts
  - Decreased operational flexibility
  - Non-Standardized forms

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Post 2016 Paradigm: RFQ to Work Order

- RRC Centralized Procurement moves to Request for Qualifications process (RFQ) with work orders:
  - Solicitation process administered by Procurement and Contracts Division
  - After Prequalification, District staff issues Work Orders to contractors
- Key Advantages:
  - Multiple awards per District offers enhanced flexibility.
  - Greater opportunity for small Texas businesses
  - Decreased administrative burden on District staff
  - Potential for competitively bid work orders
  - Increased efficiency

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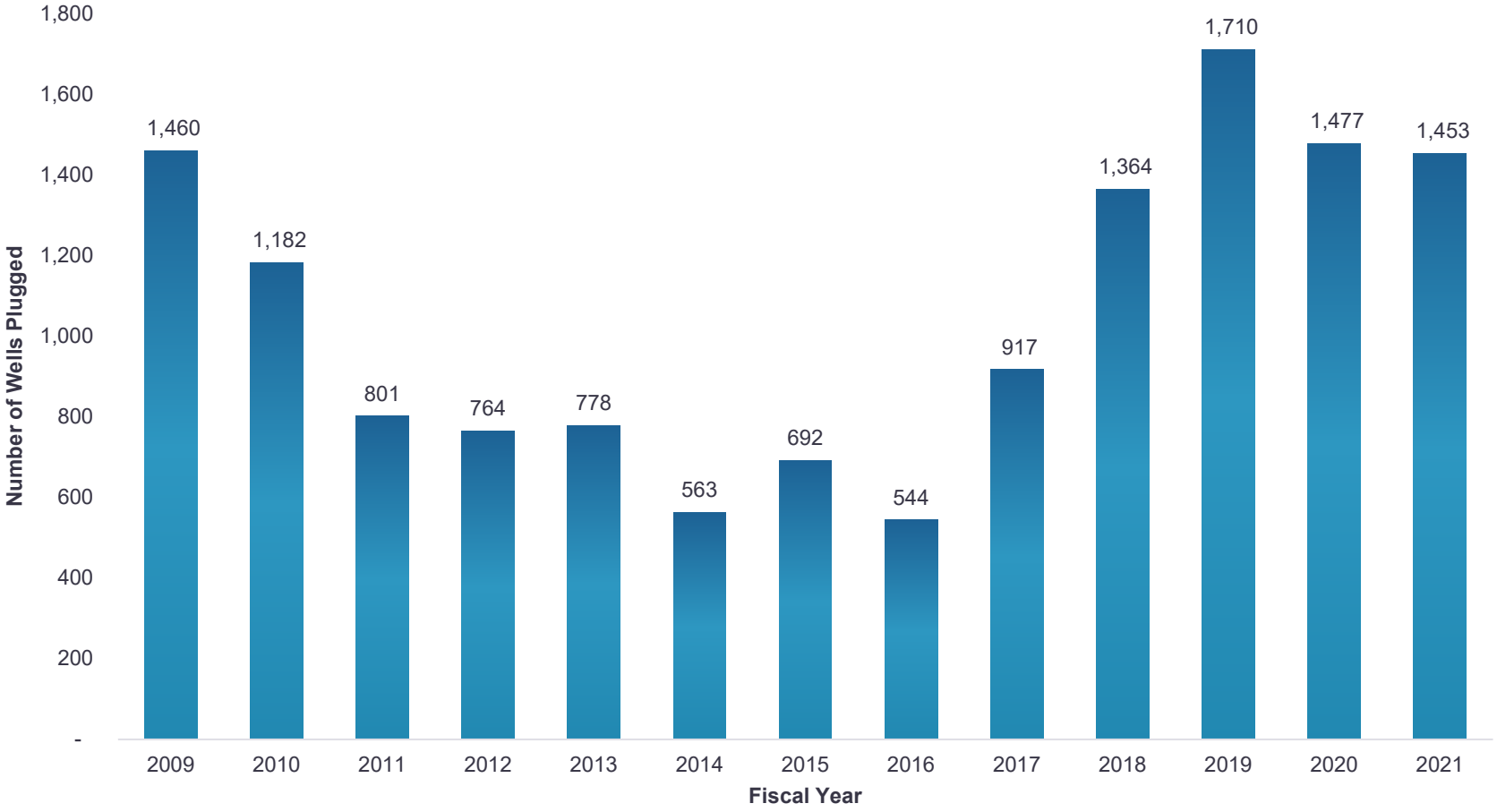
Wells Plugged With State Managed Funds FY 2009 Thru 2021



NOTE: Increased number of wells plugged starting in 2016. Corresponds with the centralization of solicitation to the Procurement and Contracts Division.

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Soliciting Well Plugging Service Providers

- Procurement Method: Request for Qualifications (RFQ)
  - Utilizing the RFQ solicitation process allows RRC to attain the best qualified contractor that represents the lowest risk to successful project completion
    - Establish and Signify Requirements:
      - Qualifications
      - Past Performance
      - Price/Cost
    - Lowest Price is Not Always Best Value

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The Best Value Process (1 of 2)

- Solicitation Requirements Risk:
  - Recognize uncertainty and risk, allocate performance/technical risks and cost
    - Risk is greatly increased if services/requirements are poorly defined
    - Identify minimum requirements

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The Best Value Process (2 of 2)

- Texas requires state agencies to publicize bidding opportunities on its Electronic State Business Daily, a website administered by the Comptroller of Public Accounts for posting state bid opportunities. This process:
  - Contemplates giving potential vendors a reasonable opportunity to compete
  - Requires that all vendors be placed on a level playing field
  - Maximizes competition
  - Broadens Contractor participation in meeting State requirements
  - Assists small businesses and Historically Underutilized Business (Minority/Veteran Owned) in obtaining contracts and subcontracts

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Case Study: Padre Island Project (1 of 2)



- **Federally Funded project in environmentally sensitive Padre Island National Seashore**
- **Total Project Cost $882,775**



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Case Study: Padre Island Project (2 of 2)

- RFP Solicitation failure in 2019:
  - No responses received
- Competitive Work Order Process with RFQ Prequalified Contractors 2020:
  - Estimated budget $1.5MM
  - Multiple bids received
  - Turnkey price per well specified in work order
  - Results with effective District staff management:
    - All eleven (11) wells plugged for a total cost of $882,775
    - Cost savings of $630,791 through competitively bid work orders
    - RRC received IOGCC's 2021 Chair's Stewardship Award for Environmental Partnership

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Questions?

- Contact:
  - Patrick Shelton, Attorney
    - patrick.shelton@rrc.texas.gov
    - 512-463-5572
  - Jesse Herrera, CPPB, CTCM, CTCD
    Contract Administration Manager
    - jesse.herrera@rrc.texas.gov
    - 512-463-6736

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Thank you for joining us!

If you have any questions, you can contact

CRO Chair

Dave Hardie

david.hardie@aer.ca

or

CRO Liaison

Amy Childers

Amy.childers@iogcc.state.ok.us

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INTERSTATE Oil & Gas COMPACT COMMISSION

Subject: Poker Lake Unit NOV Discussion 1 of 2

Start: Tuesday, March 22, 2022 3:00 PM EDT
End: Tuesday, March 22, 2022 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Fuge, Dylan , EMNRD
Required Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Optional Attendees: Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Adam Rankin <AGRankin@hollandhart.com>

Meeting Placeholder: Details TBD/closer too.

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Subject: Poker Lake Unit NOV Follow up
Location: Microsoft Teams Meeting

Start: Friday, April 01, 2022 11:00 AM EDT
End: Friday, April 01, 2022 12:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>

Janie- Please forward onto anyone appropriate on your end. Thanks

---

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IOGCC Special Meeting
Colorado Springs, CO
Preliminary Agenda

Sunday, August 15, 2021

Time	Event	Location
5:30 PM - 6:30 PM	**Reception**	**TBD**
6:30 PM - 8:00 PM	**Welcome/Dinner**	**TBD**

Monday, August 16, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**TBD**
8:30 AM - 12:00 PM	**IOGCC Business**	**TBD**

Introductions

Updated Official Representative Handbook

Process for Committee Appointments/Directory Updates

Discussion of Assessments

Other Administrative Items

12:00 PM - 2:30 PM	**Lunch/Tour**	**Garden of the Gods**
2:30 PM - 5:00 PM	**IOGCC Business**	**TBD**

Plan for Strategic Plan Update

Review of Member Survey and Key Issues

Progress on Key Issues (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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Tuesday, August 17, 2021

Time	Event	Location
7:30 AM - 8:30 AM	**Breakfast**	**TBD**
8:30 AM - 12:00 PM	**IOGCC Business**	**TBD**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs

Idle/Orphan Wells

Federal Updates (Legislation, MOUs)

Preparations for Annual Conference

12:00 PM	**Adjourn**

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From: Steele, Amber <Amber.Steele@dnr.mo.gov>
Sent: Thursday, March 24, 2022 4:15 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>; stephen_tryon@ios.doi.gov <stephen_tryon@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>; Lancaster, Nona <nona.lancaster@dnr.mo.gov>; joe.gillman@dnr.mo.gov <joe.gillman@dnr.mo.gov>; Bull, Tim <tim.bull@dnr.mo.gov>; Szapa, Aaron <Aaron.Szapa@dnr.mo.gov>
Subject: Questions from the Missouri Geological Survey on Draft Initial Grant Guidance

Good afternoon,

Thank you for the opportunity to provide comments on the draft DOI guidance on initial grants under Section 40601 of the Infrastructure Investment and Jobs Act. Our comments are mainly in the form of questions and if any clarification is needed please let me know.

1. Would hiring personnel to stand up and implement a well plugging program for the duration of the program (i.e., outside of the 12-month timeframe) constitute “obligation” of the funds?
2. What is the process for obtaining pre-approval of reimbursement of costs spent planning, researching, and preparing to apply for an initial and/or formula grant prior to the grant award approval?
3. Can the initial grant timeframe overlap with formula grant funding and vice versa?

Thank you for your time and consideration of our questions and please let me know if setting up a call would be beneficial to discuss any of these details.

Thanks,
Amber

Amber Steele, RG
Geological Survey Program Director
Missouri Geological Survey
O: (573) 368-7152
C: (573) 508-4435

We’d like your feedback on the service you received from the Missouri Department of Natural Resources. Please consider taking a few minutes to complete the department’s Customer Satisfaction Survey at https://www.surveymonkey.com/r/MoDNRsurvey. Thank you.

AMERICAN OVERSIGHT

Subject: Quick Update
Location: Microsoft Teams Meeting

Start: Friday, September 10, 2021 10:30 AM EDT
End: Friday, September 10, 2021 11:00 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; John Smitherman <JRS@nmoga.org>
Optional Attendees: Michael Feldewert <MFeldewert@hollandhart.com>

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From: Colleen Forrest <Colleen.Forrest@rrc.texas.gov>
Sent: Wednesday, March 30, 2022 9:09 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: Railroad Commission of Texas comments in response to initial grant guidance
Attachment(s): "IIJA Well Plugging_RRC Texas Comments.pdf"

Hello,
Attached please find comments from the Railroad Commission of Texas in response to the Draft State Initial Grant Guidance issued on March 17, 2022. Thank you for the opportunity to share our thoughts. We look forward to working with the Department of the Interior as we implement this funding in Texas. Please let me know if we may provide any additional information related to our comments.

Thank you,

Colleen Forrest, CGMS
Strategic Planning and Research
Office of the Executive Director
Railroad Commission of Texas
1701 N. Congress Avenue
P.O. Box 12967
Austin, TX 78711-2967
(512) 463-2645

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WAYNE CHRISTIAN, CHAIRMAN
CHRISTI CRADDICK, COMMISSIONER
JIM WRIGHT, COMMISSIONER

RAILROAD COMMISSION OF TEXAS

March 30, 2022

Mr. Steve Feldgus
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Mr. Steve Tryon
Director, Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via: orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Infrastructure Investment and Jobs Act

Dear Mr. Feldgus and Mr. Tryon:

We appreciate the opportunity to provide comments on the draft State Initial Grant Guidance for funding provided under the Infrastructure Investment and Jobs Act (IIJA).

The Railroad Commission of Texas (RRC) has effectively regulated the oil and natural gas industry in the state of Texas since 1919. The RRC's primary statutory responsibilities in the regulation of Texas oil, gas, and geothermal resources are to conserve the state's natural resources; prevent the waste of natural resources; protect the correlative rights of mineral interest owners; protect the environment from pollution associated with oil, gas, and geothermal activities; and ensure safety by mitigating hazards inherent to the oil and gas industry, including but not limited to, hydrogen sulfide in wells.

Texas is the nation's largest producer of oil and natural gas with over 160,000 active oil wells and nearly 87,000 active gas wells. This energy production supports 2 million jobs in Texas and a quarter of the state's economy. The industry not only benefits Texas, but the entire United States. Nationally, the energy industry supports over 9.2 million jobs that provide billions of dollars in employee wages.

The RRC's well plugging program began in 1983 with the creation of the Well Plugging Fund, used to pay for plugging abandoned oil and gas wells that cause or threaten to cause pollution of the state's surface and ground waters by leaking saltwater or residual hydrocarbon fluids. The more comprehensive Oil Field Cleanup Fund replaced the Well Plugging fund in 1991. In 1993, the Texas Legislature authorized the RRC to recover some of its well plugging expenses through the sale of salvageable equipment. From the program's inception in 1983 through February 28, 2022, the RRC has plugged

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NM-EMNRD-22-0512-B-001418

43,118 orphaned wells, with 8,642 wells currently in orphaned status, an increase of 1,246 wells since the Commission submitted its Notice of Intent to Apply for Formula Grants in December.

The Railroad Commission concurs with the IOGGC comments submitted previously. Our additional comments on the draft guidance are presented by section.

SECTION I. INTRODUCTION

The draft guidelines "strongly" recommend numerous best practices. Section 40601 of the IIJA does not authorize the Department of the Interior (DOI) to require states to modify their programs to incorporate DOI's best practices. Many of these recommended best practices would greatly increase the cost of well plugging and site remediation, while reducing the efficiency of the Commission's well plugging program and the number of wells we will be able to plug. For initial grants, this draft guidance appropriately allows states to decide whether to incorporate any of the recommended DOI best practices. Further discussion of this issue should be deferred to later guidance for the performance and formula grants.

SECTION II. DEFINITIONS

The draft guidance defines "Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) - as "the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP)."

We recommend that DOI clarify in the definition of "Date of receipt of funds" whether the grants are reimbursement grants or if funding will be advanced. Section 40601(c)(3)(C) implies that funding will be advanced; if so DOI should clarify the allowable timeframe (30 days, 60 days) before taking the advance. We also recommend that DOI clarify whether interest from the grant funding is considered program income.

SECTION IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

Section C (Recommended Elements) states that, although not required in relation to initial grant funding, many of the listed elements are expected to be required for subsequent grants. Section 40601 does not require this information for initial grant applications, and only some of this information is required for formula and performance grant applications by Section 40601(c)(4)(B) and (c)(5)(B). While some of these items pertain to activities that are optional for the states under (c)(2)(A), for many there is no basis in Section 40601. DOI should work closely with states to address these issues in the drafting of future guidance.

Draft element (j) under Subsection C recommends Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance. Section 40601 does not require a state to provide a list of wells with location information as part of a grant application. Formula and performance grant applications must include an estimate of the number of wells to be plugged, remediated, or reclaimed, but it is up to the state whether to provide a list of wells.

Other elements included in the Orphan Well Data Reporting Template are not appropriate identifying characteristics of the responsible party associated with an orphaned well. If the aim of these elements is to identify a responsible party in the context of Texas oil and natural gas production the last Lease Holder on file is the responsible party, while "Surface Managing Entity" and "Subsurface Managing Entity" are not

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terms used in Texas to identify the responsible party. We recommend adjusting these data elements to allow states to use the terminology appropriate to their jurisdiction to identify a responsible party.

Draft element (m) recommends training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation. We recommend that the guidance account for workforce development programs that may already be in place with other, existing funding sources, rather than imply that this funding should be used for workforce development.

SECTION V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

Section V recommends a best practice for pre- and post-plugging measurement or estimation of air and water pollution. The narrative in subsection I. states that "As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions." Though the highlighted language appears in a section of the guidance that is recommended, but not required, the vague statement of expectations should be clarified.

Verifying the lack of groundwater contamination, in particular, may require extensive monitoring measures. We recommend that the highlighted language be cut and revised to read "to verify the lack of releases of oil, gas, water, or other fluids at the surface."

With the scale of the Texas well plugging program and the proximity of orphaned wells to actively producing wells measurement of emissions is not always accurate, appropriate, or practicable.

The draft guidance document encourages states to follow a third-party methodology for emissions measurement and verification, such as the American Carbon Registry's Methodology for the Quantification, Monitoring, Reporting and Verification of Greenhouse Gas (GHG) Emissions Reductions from the Plugging Abandoned & Orphaned Oil and Gas (AOOG) Wells (once finalized). This draft methodology outlines the eligibility requirements and accounting framework for the creation of carbon offset credits from the reduction in methane emissions by plugging abandoned and orphaned wells. The proposed methodology requires numerous emissions measurements for both pre-plugging and post-plugging conditions for every well in the project boundary:

For pre-plugging monitoring,

- a 24-hour continuous-in-time measurement at least one to two months before plugging;
- a second continuous-in-time measurement one to two months after the first; and
- one point-in-time measurement at least six days before or after the continuous-in-time measurements.

For post-plugging measurements,

- a 24-hour continuous-in-time measurement at least three days after the plugging date;
- a second continuous-in-time measurement in the second or third month post-plugging;
- one point-in-time measurement at least six days before or after the continuous-in-time measurements; and
- one additional methane assessment is required approximately five years after plugging, which can be done with a handheld sensor or multi-gas sensor with a lower detection

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> limit of 2 ppmv methane. If methane concentrations exceeding 3 ppmv are detected during the test, methane flow rate using a chamber-based method shall be used.

Additional sets of measurements are required until methane emission rates are stabilized.

This emissions measurement protocol would add significant costs to the plugging effort. State agency personnel (or its contractors) would have to must visit each well site a minimum of eleven times in addition to the time spent on actual well plugging and site remediation., adding greatly to the cost of plugging each well. Most state oil and gas regulatory agencies are authorized to regulate emissions of methane and hydrogen sulfide for the purposes of prevention of waste of natural resources and protection of human health and safety. They are not generally authorized under the federal Clean Air Act for the regulation of air quality and, therefore, do not have the expertise, equipment, or contracts for such monitoring. As a result, overly complex and redundant monitoring requirements will result in fewer wells will being plugged with these federal funds.

Before the next grant guidance documents are drafted, we request that DOI clarify whether it will allow verification that the plugging reduced emissions (VOCs) or whether it will require that the state quantify (measure) the actual reduction using flow rate. The added cost of "plugging" will greatly increase if the states are required to measure the actual reduction of methane using flow rate.

The same is true with respect to measurement or estimation of the current contamination of surface water and groundwater. Drilling, completion, and monitoring of monitor wells would greatly increase the time and expense of well plugging and decreased the number of wells plugged with the limited federal funds.

The cost of monitoring activities was not included in the Commission's Notice of Intent to Apply for Formula Grants, and the cost per well will increase substantially given these monitoring requirements.

SECTION VI. FEDERAL AND TRIBAL COORDINATION

Section VI places the onus on states to contact relevant offices of Tribal or Federal land management agencies. We recommend that DOI coordinate this outreach initially. The burden should not be on the state as they implement this program. The Federal agency should be responsible for data collection at these sites.

SECTION VII. REPORTING REQUIREMENTS

Subsection E, data collection and reporting, lists data elements that will be incorporated in the guidance being developed for the forthcoming Formula grants and Performance grants. We recommend that DOI meet with the states before drafting future guidance to discuss these data elements.

SECTION VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

We request DOI provide states with guidance on the well plugging and site restoration and remediation activities that are considered "construction, alteration, or repair" under Davis-Bacon. DOI should clarify the Davis-Bacon requirements relative to well plugging and any differences with site remediation work.

Subsection C requires states to provide the federal awarding agency access to project sites, "to the extent necessary and appropriate". The Railroad Commission has no authority to grant access to private property to a federal agency.

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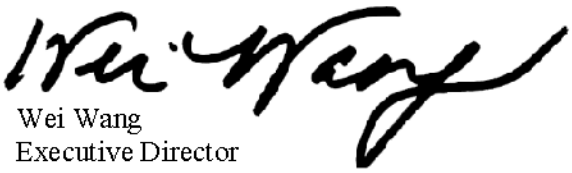
We recommend that Item G be revised to make it explicit that IIJA section 70917(c) excludes cement and cementitious materials from Buy American clauses.

We look forward to working with you as implement this once in a lifetime opportunity to alleviate potential threats to surface and subsurface waters that orphaned wells may pose by providing a pathway for the migration of fluids from hydrocarbon bearing zones into formations containing usable quality water and into surface waters, while also alleviating any potential fugitive emissions from orphaned wells located across Texas. Thank you for the opportunity to provide comments on the draft State Initial Grant Guidance for well plugging funding provided under the Infrastructure Investment and Jobs Act.

Please contact Colleen Forrest at (512) 463-2645 or colleen.forrest@rrc.texas.gov with any questions you may have related to the Commission's Infrastructure funding implementation efforts. Thank you again for the opportunity to share our thoughts.

Sincerely,



Wei Wang
Executive Director

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Subject: Rare Plants and OCD - check in
Location: Microsoft Teams Meeting

Start: Monday, June 07, 2021 12:00 PM EDT
End: Monday, June 07, 2021 12:45 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: McCarthy, Laura, EMNRD
Required Attendees: McCarthy, Laura, EMNRD <Laura.McCarthy@state.nm.us>; Roth, Daniela, EMNRD <Daniela.Roth@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Bada, Cheryl, EMNRD <cheryl.bada@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>

To-do before this meeting:

1. Draft cover email for Adrienne to invite companies (EOG, XTO, Lucid, Cimmarex)
2. Update/finalize FAQ, with an associated PDF map
3. Finalize outline of proposed updated APD process
4. Availability for meeting with companies

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From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Wednesday, April 06, 2022 4:10 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: RE: Comments on Draft Guidance
Attachment(s): "FW [EXTERNAL] Oil Gas Orphan Well Program - Oregon .msg"

Hi Amy,

I asked the BLM National Oil and Gas Lead if they had any documented abandoned wells on federal lands in Oregon. The response I received indicated that geothermal wells may NOT be included in this program. My confirmation request to the dedicated orphaned wells email address has not been answered yet.

Thank you,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
***Due to an increase in permit applications and inquiries submitted to the MLRR office, processing and response times have increased. Permit applications are processed in the order they are received and moved forward as applicants respond to deficiencies. Thank you for your patience.**
COVID-19 Response: To help address COVID-19 concerns, many DOGAMI staff are teleworking. MLRR is continuing normal operations. For best service, please contact us by email.
Check out our latest newsletter and sign up to receive it directly at:https://www.oregongeology.org/mlrr/engage.htm
Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

From: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>
Sent: Wednesday, April 6, 2022 10:36 AM
To: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: FW: Comments on Draft Guidance

Can you respond to this. I believe it came from you. Thanks!

Bob Brinkmann R.G.
DOGAMI-MLRR

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Wednesday, April 6, 2022 10:17 AM
To: BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>
Subject: Comments on Draft Guidance

Hi Bob,

DOI let us know that Oregon asked for clarification on geothermal well eligibility. Can I get a copy of the request for information and DOI's comments? We just want to keep all the states comments on file for backup.

Thank you!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



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From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Tuesday, March 29, 2022 1:21 PM EDT
To: orphanedwells@ios.doi.gov <orphanedwells@ios.doi.gov>
CC: Tryon, Steve G <stephen_tryon@ios.doi.gov>; LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>; BRINKMANN Bob * DGMI <Bob.BRINKMANN@dogami.oregon.gov>; PRIEST Zee SR * DGMI <Zee.SR.PRIEST@dogami.oregon.gov>
Subject: FW: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

Greetings!

Oregon has been following this program out of an interest in applying the funding to orphanedgeothermal wells. Can you please confirm/deny whether these grant monies can be used for that purpose, or only oil/gas?

Thank you very much,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
***Due to an increase in permit applications and inquiries submitted to the MLRR office, processing and response times have increased. Permit applications are processed in the order they are received and moved forward as applicants respond to deficiencies. Thank you for your patience.**
COVID-19 Response: To help address COVID-19 concerns, many DOGAMI staff are teleworking. MLRR is continuing normal operations. For best service, please contact us by email.
Check out our latest newsletter and sign up to receive it directly at:https://www.oregongeology.org/mlrr/engage.htm
Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

From: Warren, Matthew (Matt) <mwarren@blm.gov>
Sent: Tuesday, March 29, 2022 9:31 AM
To: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: RE: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

ReNeea,

Currently there are no federal orphan wells in Oregon. My understanding is geothermal wells are not part of the federal oil and gas orphan well funding.

Matthew Warren
National Oil and Gas Program Lead
BLM HQ310
Cell 505-216-8832

From: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Sent: Wednesday, March 23, 2022 2:39 PM
To: Warren, Matthew (Matt) <mwarren@blm.gov>
Cc: LOFTON ReNeea * DGMI <ReNeea.LOFTON@dogami.oregon.gov>
Subject: [EXTERNAL] Oil/Gas Orphan Well Program - Oregon?

Hi Matthew,

Our agency has been participating in the IOGCC meetings re: grant monies available for plugging/abandoning orphaned wells. We actually have two geothermal wells that are orphaned. We don't have any orphaned oil/gas wellsthat we know of, and so were curious whether BLM had any identified orphaned wells in Oregon?

I realize you must be incredibly busy right now – if the information is available in the BLM database(s), I would be happy to access it myself. Any direction you can provide would be appreciated 😊

Cheers,

ReNeea Lofton | *Permit Coordinator (she/hers)*
Oregon Department of Geology and Mineral Industries
Mineral Land Regulation & Reclamation
229 Broadalbin St SW, Albany, Oregon 97321
Office: 541-967-2040 | Mobile: 971-275-3851
E-mail: ReNeea.Lofton@dogami.oregon.gov | www.oregongeology.org
***Due to an increase in permit applications and inquiries submitted to the MLRR office, processing and response times have increased. Permit applications are processed in the order they are received and moved forward as applicants respond to deficiencies. Thank you for your patience.**
COVID-19 Response: To help address COVID-19 concerns, many DOGAMI staff are teleworking. MLRR is continuing normal operations. For best service, please contact us by email.
Check out our latest newsletter and sign up to receive it directly at:https://www.oregongeology.org/mlrr/engage.htm
Unless otherwise indicated, all information in this correspondence is classified as Level 1, "Published" according to State of Oregon statute and administrative policy.

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

From: Tom Kropatsch <tom.kropatsch@wyo.gov>
Sent: Friday, April 08, 2022 1:05 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Re: UPDATE: DOI Initial Grant Guidance--State Comments
Attachment(s): "Comment on Initial Grant Guidance.pdf"

Hi Amy,
In addition to the comments I originally submitted, I also submitted comments after the revisions they made to the guidance. I forgot to copy you on them, but they are attached.

Thanks,
Tom Kropatsch
Oil and Gas Supervisor
Wyoming Oil and Gas Conservation Commission
2211 King Blvd
PO Box 2640
Casper, WY 82602
Office: (307) 234-7147
Cell: (307) 274-7487

On Wed, Apr 6, 2022 at 11:25 AM Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us> wrote:

> Attached are the comments shared with Amy by the following states:
>
> Indiana
>
> Kentucky
>
> Louisiana
>
> Missouri
>
> New Mexico
>
> New York
>
> North Dakota
>
> Ohio
>
> Pennsylvania
>
> Texas
>
> Wyoming
>
> Amy has confirmed with Greg Nottingham that DOI received these comments. If your state submitted comments that are not included here, please send a copy to Amy.
>
> Thanks,
>
> Lori
>
> ---
>
> **From:** Lori Wrotenbery
> **Sent:** Wednesday, March 23, 2022 4:47 PM
> **Cc:** Amy Childers <amy.childers@iogcc.state.ok.us>
> **Subject:** UPDATE: Initial Grant Guidance.
>
> Attached are the comments I submitted to DOI today on the draft state initial grant guidance.

AMERICAN OVERSIGHT

I will be out of the office from March 24th through April 1st. If you need anything from IOGCC during that time, please let Amy know. I will return to the office on April 4th.

Thanks,

Lori

From: Lori Wrotenbery
Sent: Monday, March 21, 2022 4:53 PM
Subject: UPDATE: Initial Grant Guidance.

Attached is the Orphaned Well Data Reporting Template, which is referenced in the initial grant guidance in paragraph (j) on page 7 and paragraph 2 on page 11. It did not get posted with the guidance as intended, but Steve Tryon asked me to share it with you.

From: Lori Wrotenbery
Sent: Thursday, March 17, 2022 2:58 PM
Subject: RE: UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

Breaking News:

DOI has released the draft initial grant guidance:https://www.doi.gov/pressreleases/biden-harris-administration-releases-draft-guidance-invites-public-comment-new.

We are scheduling a states-only meeting for tomorrow afternoon at 1:00-2:30 PM CT to review the draft. If you can join us, please follow the Zoom instructions below. I will send you a copy of my preliminary comments on the draft before the meeting.

Please let me know if you have any questions.

Thanks,

Lori

You are invited to a Zoom webinar.

When: Mar 18, 2022 01:00 PM Central Time (US and Canada)

Topic: Review of DOI's Draft Initial Grant Guidance--States Only

Register in advance for this webinar:

https://us02web.zoom.us/webinar/register/WN_1YbwRQ3ZTpe-tLOvVCP7AQ

After registering, you will receive a confirmation email containing information about joining the webinar.

AMERICAN OVERSIGHT

E-Mail to and from me, in connection with the transaction of public business, is subject to the Wyoming Public Records Act and may be disclosed to third parties.

AMERICAN OVERSIGHT

Governor Mark Gordon, Chairman | Tom Kropatsch, State Oil and Gas Supervisor
Commissioners Jenifer Scoggin | Erin Campbell | Ken Hendricks | Jimmy E. Goolsby

March 25, 2022

Steve Feldgus
Deputy Assistant Secretary for
Land and Minerals Management
U.S. Department of the Interior
1849 C Street NW Washington, DC 20240

Steve Tryon
Director
Office of Environmental Policy and Compliance
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Submitted via email: orphanedwells@ios.doi.gov

Re: Draft State Initial Grant Guidance under the Bipartisan Infrastructure Law

Dear Dear Deputy Assistant Secretary Feldgus and Director Tryon,

Thank you for the opportunity to submit comments regarding the Draft State Initial Grant Guidance. It is important the guidance issued by the Department of Interior (DOI) is in alignment with the provisions of the orphaned well program in the Bipartisan Infrastructure Law (BIL) to ensure successful implementation of the state portion of the program. We look forward to continued collaboration with the DOI through the Interstate Oil and Gas Compact Commission (IOGCC).

There were some concerns regarding certain definitions and requirements present in early versions of the draft guidance that were revised or removed from this the current draft guidance document. We appreciate the revision of these provisions so that the document more closely aligns with the BIL. While these revisions addressed many of the concerns we had related to the guidance document, there are a few additional items that should be revised to more closely align the guidance to the BIL, to allow the most flexibility to states to effectively implement an orphaned well plugging program, or to allow states to implement the program while complying with requirements of their own states.

The first item we suggest for revision is related to State, Federal, and Tribal coordination. This section requires that the State collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. This is overly prescriptive and may force the States to change the way historical coordination between States and the Federal government has been implemented. For example, in Wyoming we have assisted the Bureau of Land Management (BLM) in the plugging of Federal orphan wells for the past several years. As part of this historical cooperation, the Wyoming Oil and Gas Conservation Commission (WOGCC) receives a list of orphan projects from the BLM, releases bids, and issues contracts for the work following the State process. The BLM staff conduct any required field work, such as witnessing the plugging operations. Once the operations are complete the WOGCC pays the invoices and is reimbursed from Federal grants issued by the BLM. The BLM field staff collects all data associated with field work that would be required to be collected as part of a plugging program. It may be too burdensome on the State to continue this program if the WOGCC is required to also collect all required data. Please revise this language to allow the State and the Federal or Tribal entities to design their own agreements as to which entity is responsible for which specific tasks within the program and which data will be collected by each specific entity. This will ensure the highest level of cooperation and ultimately the success of the cooperative programs.

AMERICAN OVERSIGHT

2211 King Boulevard, Casper, WY 82604 | PO Box 2640, Casper WY 82602-2604 P 307.234.7147

Second, in Section VIII (C), there is a requirement for States to provide the Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites. This language was revised from earlier drafts, which required States to provide the Federal government access to the project sites, but the language is still not clear that the States will not be required to grant access to the Federal government to state or private (fee) wells. States may not have the authority to grant access to private property to the Federal government. Additionally, States will already have a program to witness the work conducted on state and private wells, so adding witnessing from the Federal government is an inefficient use of funding and staff time – essentially creating a witnessing the witness type of program. While the language requiring access to relevant documentation in State possession is fine, the language related to the access to project sites by the Federal awarding agency should be removed.

Finally, there are several areas where clarification of how States can comply with certain requirements of the program would be beneficial. First, the section on reporting requirements indicates that the States must submit a report no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds. When considered against other language in the BIL and guidance document, the States must also return any funds which have remain "unobligated" after 12 months. It would be helpful to have more clarity in the guidance on what is meant by funds "used" after the 15-month period. For example, does "used" mean paid out to contractors for work conducted for uses allowed by the BIL or if funds are obligated under a contract can those be considered "used"? It may be difficult to issue bids, sign contracts, complete the work, and have all invoices paid within 15 months. Invoicing from contractors and subcontractors can take several months following the completion of the field activities. Understanding if obligated funds can still be used and paid out to contractors after the 15-month period would be helpful in determining the amount of the grant the State will apply for to ensure full compliance and utilization of the funding.

Finally, Section VIII (G) requires all iron, steel, manufactured products, and construction materials used in the project to be produced in the United States. The WOGCC would not be aware of where products supplied to contractors or subcontractors such as bridge plugs, cast iron cement retainers, and other products are manufactured. With the short time periods and quick deadlines for obligation and utilization of the funds required in the initial grant, determining sources of these products or requiring sourcing from certain manufactures may be difficult to comply with. It has been stated that a waiver may be applied for, but no information as to how to apply for a waiver is provided. Please provide more details on potential waivers of these requirements.

Thank you for the opportunity to provide comments. Your review of these comments and revision of the sections of guidance discussed is appreciated.

Sincerely,

Tom Kropatsch
State Oil and Gas Supervisor

AMERICAN OVERSIGHT

From:	Sandoval, Adrienne, EMNRD
To:	Kathy Ytuarte
Cc:	Winchester, Jim; Propst, Sarah, EMNRD; Leahy, Todd, EMNRD
Bcc:	Fuge, Dylan , EMNRD
Subject:	RE: Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
Date:	Friday, May 28, 2021 11:55:00 AM
Attachments:	image001.png
Sensitivity:	Confidential

Messrs. Winchester and Gould-

The OCD is in receipt of your letter dated May 24th regarding C-129 "single event" reporting under 19.15.27.8(G)(1). The OCD has addressed these questions in the notice titled Release of Final C-129 and Natural Gas Management Plan Forms that was released on May 21, 2021. Based on your letter, we do wish to explain that for purpose of assessing reportability, the OCD consider a 24 hour period to be a calendar day, not a rolling time period. This means no more than calendar day reports for recurring activities that exceed the rule's thresholds.

As explained in the notice, the OCD will be monitoring "the frequency and nature of Form C-129s being submitted… to evaluate whether the reporting period should be adjusted." We look forward to continuing dialogue regarding the implementation of our new rules on this or other provisions.

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

From: Kathy Ytuarte <Kathy@nmoga.org>
Sent: Monday, May 24, 2021 5:35 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Winchester, Jim <jimwinchester@ipanm.org>; Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>
Subject: [EXT] Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
Sensitivity: Confidential

Dear Ms. Sandoval,

AMERICAN OVERSIGHT

Please see attached letter from NMOGA and IPANM regarding C-129"single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules including relevant documents.

Sincerely,

Leland Gould
NMOGA Chairman

NMOGA
NEW MEXICO OIL AND GAS ASSOCIATION

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AMERICAN OVERSIGHT

From:	Sandoval, Adrienne, EMNRD
To:	Kathy Ytuarte
Cc:	Winchester, Jim; Propst, Sarah, EMNRD; Leahy, Todd, EMNRD
Bcc:	Fuge, Dylan , EMNRD
Subject:	RE: Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
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As explained in the notice, the OCD will be monitoring "the frequency and nature of Form C-129s being submitted… to evaluate whether the reporting period should be adjusted." We look forward to continuing dialogue regarding the implementation of our new rules on this or other provisions.

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

From: Kathy Ytuarte <Kathy@nmoga.org>
Sent: Monday, May 24, 2021 5:35 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Winchester, Jim <jimwinchester@ipanm.org>; Propst, Sarah, EMNRD <Sarah.Propst@state.nm.us>; Leahy, Todd, EMNRD <Todd.Leahy@state.nm.us>
Subject: [EXT] Revised Email with Attachments -Form C-129 "single event" reporting under 19.15.27.8(G)(1) of the newly enacted Venting and Flaring Rules, Attachment A - Case No. 21528 Transcription, and Attachment B - OCD Presentation Slide
Sensitivity: Confidential

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AMERICAN OVERSIGHT

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Sincerely,

Leland Gould
NMOGA Chairman

NMOGA
NEW MEXICO OIL AND GAS ASSOCIATION

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AMERICAN OVERSIGHT



AMERICAN OVERSIGHT

From: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Sent: Tuesday, June 08, 2021 12:56 PM EDT
To: Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
Subject: RE: [EXT] 2020 NM Production Numbers

Also Kathleen if you need help with he intranet reports let Phil and I know we may be able to help as well.

Thank You

Brandon Powell
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>
Sent: Tuesday, June 8, 2021 10:55 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
Subject: RE: [EXT] 2020 NM Production Numbers

Actually they did put up the 2020 tab so I can run that.

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, June 8, 2021 10:49 AM
To: Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>
Cc: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
Subject: RE: [EXT] 2020 NM Production Numbers

Please put in a helpdesk ticket for the Reports tab problems.

What do you mean “the 2020 report was never able to be run”?

From: Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>
Sent: Tuesday, June 8, 2021 10:47 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
Subject: RE: [EXT] 2020 NM Production Numbers

I don’t have access to the Reports tab anymore, so I am cannot run those reports. It was on the old webpage.

Also the 2020 report was never able to be run. ITO only had a tab for 2019.

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, June 8, 2021 10:45 AM
To: Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>
Cc: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXT] 2020 NM Production Numbers

Kathleen- Do you have the operator annual production report for 2020? If not, can one be run?

Thanks

From: Jim Winchester <jimwinchester@ipanm.org>
Sent: Monday, June 7, 2021 6:08 PM
To: Torres, Susan, EMNRD <Susan.Torres@state.nm.us>
Cc: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXT] 2020 NM Production Numbers

AMERICAN OVERSIGHT

Hi all:

Just wondering if there is a ranking list available for Top 100 oil and/or gas producers out from 2020.

The Statistics page lists 2019 as the latest report.

Operator Annual Production Report 2016		X	02/26/2020
Operator Annual Production Report 2017		X	02/26/2020
Operator Annual Production Report 2018		X	02/26/2020
Operator Annual Production Report 2019		X	02/26/2020

Just wondering if you have a separate sheet already made up, etc. Not looking to IPRA or anything. If not, is there a quick reference list from 2019 available vs. the excel sheet?

Thanks for any assistance.

--jim

AMERICAN OVERSIGHT

From: Cody Owens <cowens@mewbourne.com>
Sent: Friday, April 22, 2022 5:59 PM EDT
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
CC: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: RE: [EXT] RE: [EXTERNAL] Brine Well

Tiffany,

Thanks for the feedback. As outlined in my email dated February 8th, 2022 and further discussed in our meeting on March 23rd, Mewbourne plans to complete our wells in T22S-R27E starting in May. The wells are scheduled for completion as follows:

- City Slickers 28/29 W0AD Fee #001H (API 30-015-48087) & Waterboy 27/26 W0DA Fee #001H (API 30-015-47305)—Dual Pad completion will begin on May 23rd, 2022.
- Mighty Ducks 15/16 W0IL State Com #002H (API 30-15-46807) & Mighty Ducks 15/16 W0PM State Com #001H (API 30-015-46808)—Dual Pad completion will begin on June 5th, 2022.

This should satisfy the commencement of activity notice outlined in Order No. R-22063.

Please let me know if you have any questions.

Regards,

Cody

From: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Sent: Tuesday, April 19, 2022 6:14 PM
To: Cody Owens <cowens@mewbourne.com>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXT] RE: [EXTERNAL] Brine Well

Hi Cody,
Good timing as we wanted to provide an update on status after our last meeting.

Sand injection came to an end on February 15, 2022 after placing 64,614 cubic yards of sand into the void since operations restarted in October 2021. All injection wells stopped accepting sand and caliper logging indicates an average unfilled void height of only 15 feet. Based on those results, the contractor considers the backfilling operations complete with a much greater percentage of the void being filled than had been originally anticipated.

Sand injection also came in under budget, as result OCD is working with contractor to utilize savings for post-filling monitoring. Remaining tasks include: cavity depressurization, demobilization, surface restoration, monitoring plan development and implementation and receipt of a final report from the contractor addressing, among other things, confirmation that risk to surface and groundwater have been addressed. We anticipate reporting, demobilization, depressurization, and surface restoration to be on track for completion in Summer 2022. As we discussed at our last meeting, we have requested that the contractor provide an interim report on the resumption of activities within certain areas of the current 5 mile buffer zone. We are working to finalize necessary contract change orders in the near term, which will include the release of updated guidance. At this time, we cannot confirm that updated guidance will be finalized by mid-May but will continue to keep you appraised of progress.

Thank you,
Tiffany

From: Cody Owens <cowens@mewbourne.com>
Sent: Tuesday, April 19, 2022 11:39 AM
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Brine Well

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Tiffany,

Can you share an update on the Brine well? I know we are approaching the end of the 45 day moratorium outlined in the recent order so I suspect there might be an update soon.

Cody

Cody Owens
Mewbourne Oil Company
3620 Old Bullard Rd
Tyler, TX 75701
Office: 903-561-2900

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, April 05, 2022 10:36 AM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
CC: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: Re: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors

Gilbert Cordero
Gilbert.Cordero@state.nm.us

Monica Kuehling
Monica.Kuehling@state.nm.us

Get Outlook for iOS

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, April 5, 2022 8:24 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: RE: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors

Adrienne,

Can I get the names and contact information for the other two as well?

Thank you!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, April 1, 2022 10:31 AM
To: Amy Childers <amy.childers@iogcc.state.ok.us>
Cc: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: RE: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors

Great!

For the one covered by IOGCC it will Brandon Powell, copied here. His phone number is 505-320-0200.

Thanks

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Wednesday, March 30, 2022 9:23 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: RE: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors

Yes, we can do that!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Wednesday, March 30, 2022 10:12 AM
To: Amy Childers <amy.childers@iogcc.state.ok.us>
Cc: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: RE: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors

AMERICAN OVERSIGHT

Hi Amy-

We would love to send 3 people if possible, with us covering the costs for 2 of them.

Is that possible?

Thanks!
Adrienne

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, March 29, 2022 12:41 PM
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Mulkey, Cindy <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov; danny.sorrells@rrc.texas.gov; dennis.hatfield@ky.gov; Eric Vendel <eric.vendel@dnr.state.oh.us>; John Adams <johnny.adams@la.gov>; james.a.martin@wv.gov; Jeremy Price <Jeremy.price@alaska.gov>; Jess New <jnew@ogb.state.ms.us>; Jim Halvorson <jhalvorson@mt.gov>; John R. Baza <johnbaza@utah.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Blocker, Lucy (DENR <lucy.blocker@state.sd.us>; Lynn D. Helms <lhelms@nd.gov>; azogcc@azdeq.gov; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; michael.lees@state.sd.us; 'Molly Michaelson' <molly.michaelson@maryland.gov>; Nick Tew <ntew@gsa.state.al.us>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Russell Retherford <rretherford@dnr.in.gov>; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; Klapkowski, Kurt E <kklapkowsk@pa.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>
Cc: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: [EXTERNAL] 2022 State Oil & Gas Field Inspector Forum - Invite to Oil and Gas Directors
Importance: High

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

I am pleased to inform you that the Interstate Oil and Gas Compact Commission (IOGCC) will be hosting the State Oil & Gas Field Inspector Forum (SOGFIF) this year in conjunction with the IOGCC Annual Business Meeting in Oklahoma City, Oklahoma.

The Inspector Forum will be held Saturday, May 14th from 8:30am – 5:00pm and Sunday, May 15th from 8:30am – 11:00am. The inspectors will have a roundtable discussion about a variety of topics, including orphan wells. This portion of the forum provides the inspectors with a unique opportunity to share experiences and establish peer-to-peer relationships.

The IOGCC will provide airfare, lodging, and per diem toone field inspector from each member state. The chosen inspector will travel to OKC, Friday, May 13th. After the forum concludes on Sunday, the inspectors will have the option to join the IOGCC Annual Business Meeting proceedings on the afternoon of Sunday, May 15th. Inspectors attending the forum but not the meeting proceedings will receive lodging for May 13th and 14th and travel home on the afternoon of Sunday, May 15th. Those opting to attend the meeting will receive lodging for May 13th thru the 15th and travel home on May 16th.

Expenses that will be covered by the IOGCC for the one field inspector from each member state:

- Airfare
- Lodging
- Per Diem
- Breakfast and Lunch, Saturday, May 14th
- Breakfast, Sunday, May 15th

This year we are expanding the forum to allow for more inspectors. If you would like to send more than one inspector, you can at your expense. The state will need to cover the travel expenses as well as the lodging. If you are interested in sending more than one inspector, contact me so that we can discuss in more detail.

Please provide the name, phone number, and email addresses of the field inspectors of your choice I will contact each inspector to get the registration process started. If you have any questions or need more information, do not hesitate to contact me directly.

Hope to see you all in OKC!

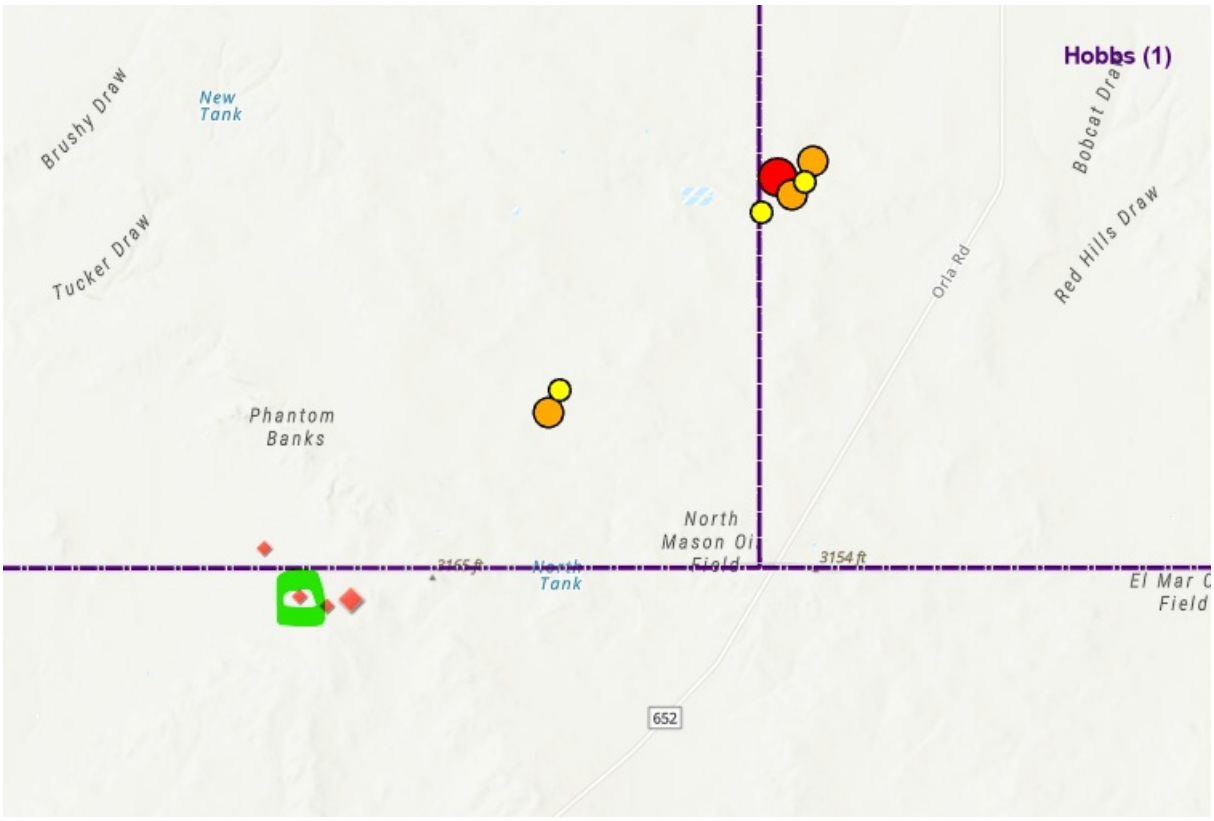
Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

From: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Sent: Monday, May 16, 2022 1:11 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: RE: [EXTERNAL] FW: 2022-05-15 00:00:03 (M3.1) New Mexico 32.7 -104.4 (a2a14)

This one is just across the Texas boarder in line with the County Line area. I highlighted this one below and the county line events are to the NE.



Thank You

Brandon Powell
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Monday, May 16, 2022 10:14 AM
To: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: Fwd: [EXTERNAL] FW: 2022-05-15 00:00:03 (M3.1) New Mexico 32.7 -104.4 (a2a14)

Is this in one of the known seismic areas? Or somewhere new?

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From: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Sent: Monday, May 16, 2022 9:27:39 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Cc: Cody Comiskey <cody.comiskey@chevron.com>; Doug Klepacki <dklepacki@cimarex.com>
Subject: [EXTERNAL] FW: 2022-05-15 00:00:03 (M3.1) New Mexico 32.7 -104.4 (a2a14)

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Adrienne, Tiffany, Brandon,

AMERICAN OVERSIGHT

We're aware of the event that occurred over the weekend (see USGS notification below, which I'm sure you also received), and have distributed this and other information to the operator community. As with previous M2.5+ events in New Mexico, please let us know if you would like to discuss this event in more detail in the next couple of days. We stand ready to share with you any additional information we have on this seismic event and its geologic, operations, and seismologic context, including private array information.

Thanks,

Stefan A. Hussenoeder
Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas
EMHC, W4.5A.358
22777 Springwoods Village Parkway
Spring, TX 77389

(832) 624-9924 (office) ; (713) 208-7967 (mobile)
Mysite: http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse
Linkedin: https://www.linkedin.com/in/shussenoeder

From: USGS ENS [mailto:ens@ens.usgs.gov]
Sent: Saturday, May 14, 2022 7:11 PM
To: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Subject: 2022-05-15 00:00:03 (M3.1) New Mexico 32.7 -104.4 (a2a14)

External Email - Think Before You Click

M3.1 Earthquake - New Mexico

Preliminary Report	
Magnitude	3.1
Date-Time	· 15 May 2022 00:00:03 UTC · 14 May 2022 18:00:03 near epicenter · 14 May 2022 18:00:03 standard time in your timezone
Location	32.664N 104.428W
Depth	5 km
Distances	· 12.3 km (7.6 mi) SSW of Atoka, New Mexico · 19.9 km (12.3 mi) S of Artesia, New Mexico · 32.9 km (20.4 mi) NW of Carlsbad, New Mexico · 81.5 km (50.5 mi) S of Roswell, New Mexico · 363.0 km (225.1 mi) SSE of Santa Fe, New Mexico
Location Uncertainty	Horizontal: 3.1 km; Vertical 2.0 km
Parameters	Nph = 48; Dmin = 58.2 km; Rmss = 0.61 seconds; Gp = 72° Version =
Event ID	us 6000hl7w

For updates, maps, and technical information
see: Event Page or USGS Earthquake Hazards Program
National Earthquake Information Center
U.S. Geological Survey

Disclaimer

This email was sent tohussenoeder@exxonmobil.com

You requested mail for events between 32.0/37.0 latitude and -103.0/-109.0 longitude (New Mexico) for M2.5 at all times.

To change your parameters, go to: https://earthquake.usgs.gov/ens/
To unsubscribe, send a one-line reply to this message with: STOP hussenoeder@exxonmobil.com

AMERICAN OVERSIGHT

From: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Sent: Monday, March 28, 2022 9:37 AM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: RE: [EXTERNAL] Fwd: Drilling tolerance for as-drilled wells

I had discussed it with Jordan and have a decent idea on it. I can schedule a meeting with just us and walk you through it this week. There are a couple complications with it.

Thank You

Brandon Powell
(505) 320-0200

"He who wishes to gain knowledge is wiser than he who thinks he has knowledge (unknown)"

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, March 25, 2022 4:19 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Cc: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: Fwd: [EXTERNAL] Fwd: Drilling tolerance for as-drilled wells

Do we need to set an internal meeting to discuss? meeting with them?

Get Outlook for iOS

From: Jordan Kessler <Jordan_Kessler@eogresources.com>
Sent: Friday, March 25, 2022 12:09:31 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Subject: [EXTERNAL] Fwd: Drilling tolerance for as-drilled wells

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Hi Adrienne and Brandon, happy Friday. Can we circle up on this issue in the near future? Happy to set a call to discuss, or whatever will help.

Thanks,
Jordan

Begin forwarded message:

> **From:** Jordan Kessler <Jordan_Kessler@eogresources.com>
> **Date:** March 16, 2022 at 8:58:00 AM MDT
> **To:** "Powell, Brandon, EMNRD" <Brandon.Powell@state.nm.us>
> **Subject: FW: Drilling tolerance for as-drilled wells**
>
> Hi Brandon, I know you're slammed—sorry to bother you. I was wondering if you had an update on this, or need more information, or want to set a meeting to talk through scenarios?
>
> Thanks a bunch,
> Jordan
>
> ---
>
> **From:** Jordan Kessler
> **Sent:** Wednesday, March 9, 2022 10:16 AM
> **To:** 'Powell, Brandon, EMNRD' <Brandon.Powell@state.nm.us>
> **Cc:** 'adrienne.sandoval@state.nm.us' <adrienne.sandoval@state.nm.us>; Patrick Padilla <Patrick_Padilla@eogresources.com>
> **Subject:** Drilling tolerance for as-drilled wells
>
> Hi Brandon,
>
> Thanks for talking yesterday. Here's a summary of the issue:

AMERICAN OVERSIGHT

BLM allows EOG to submit sundries after drilling for minor changes in location within the quarter quarter section. A recent example is a change for the length of the completed interval from approximately 440 feet from the west line to 330 feet from the west line. The updated drilling locations are to an orthodox location at 330 feet from the boundary line. EOG changes this location from the originally permitted location (most typically) so that we can place an additional well in the spacing unit, and BLM authorizes the practice because of their backlog in approvals, so that companies aren't waiting nine months for a location change.

The completed interval has drifted slightly closer to the outer boundary of the spacing unit during drilling on some of these wells. Again, a recent example is for a well projected to be 330 feet off the western boundary, as-drilled the location was approximately 317 feet off of the line. The as-drilleds are always within the 50 foot tolerance.

Because the sundries with the new locations are not yet approved by the BLM, we are in no man's land on the 50 foot drilling tolerance. I've copied the rule below. Part (c) would seem to allow us to apply the 50 foot drilling tolerance in the as-drilled scenario since the language says "projected location" rather than "approved" or "permitted location," which is used in other places in the rule. As you likely recall from the hearing, the spirit of the rule was to allow a 50 foot drilling tolerance from the 330 line, which would apply to the present scenario. I remain unsure, so out of an abundance of caution, I've been submitting NSL requests to the OCD until I receive guidance.

There are a number of these situations in the queue—it is hard for me to get a good estimate, but upwards of 50-100, and I don't OCD to unnecessarily expend time. I have advised EOG that going forward the permit needs to be filed at 330 so this situation will be avoided. Could you please let me know the OCD's position on whether it is acceptable to apply the 50 foot drilling tolerance rather than pursue an NSL?

Thanks!
Jordan

19.15.16.15(C)
(5) Unorthodox well locations. The horizontal well's location is considered unorthodox if:
(a) any part of the horizontal well's completed interval is projected to be closer to an outer boundary of the horizontal spacing unit than allowed by Paragraph (1) of Subsection C of 19.15.16.15 NMAC, or other applicable rule or special pool order;
(b) a directional survey shows that the horizontal well's first or last take point, as drilled, is located closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (b) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC;
(c) a directional survey shows that any part of the horizontal well's completed interval, as drilled, is more than 50 feet from its projected location and closer to the outer boundary of the horizontal spacing unit than allowed by Subparagraph (a) of Paragraph (1) of Subsection C of 19.15.16.15 NMAC or other applicable rule or special pool order; or
(d) for previously approved unorthodox well locations, if a directional survey shows that any part of the completed interval is located more than 50 feet (or, if less, twenty-five percent of the previously authorized distance) closer to the outer boundary of the horizontal spacing unit than the approved location

Jordan Kessler
Senior Regulatory Advisor
eog resources
125 Lincoln Avenue, Suite 213
Santa Fe, NM 87501
Mobile: (432) 488-6108
Office: (575) 748-4158
jordan_kessler@eogresources.com

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 19, 2022 7:01 PM EDT
To: Amy Childers <amy.childers@iogcc.state.ok.us>
Subject: RE: [EXTERNAL] IOGCC Annual Business Meeting

Yes! The hotel was booked but looks like our financial staff booked it under the normal rate not government rate. Just got that fixed so hopefully you can see me now.

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Tuesday, April 19, 2022 10:42 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] IOGCC Annual Business Meeting

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Hi Adrienne,

Are you going to be able to make it to OKC? I don't have a record of you having a hotel reservation.

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us



AMERICAN OVERSIGHT

From: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Sent: Tuesday, March 08, 2022 9:33 AM EST
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
CC: matthias.sayer@nglep.com <matthias.sayer@nglep.com>; Cody Comiskey <cody.comiskey@chevron.com>
Subject: RE: [EXTERNAL] Next week's state line seismic response protocol discussion

Adrienne, we've prepared a handful of slides on the following topics:

- Summary of operator response before & after implementation of OCD Induced Seismicity Protocol
- Update on County Line seismicity
- Proposed next steps

Stefan A. Hussenoeder
Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas
EMHC, W4.5A.358
22777 Springwoods Village Parkway
Spring, TX 77389

(832) 624-9924 (office) ; (713) 208-7967 (mobile)
Mysite: http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse
Linkedin: https://www.linkedin.com/in/shussenoeder

From: Sandoval, Adrienne, EMNRD [mailto:Adrienne.Sandoval@state.nm.us]
Sent: Monday, March 7, 2022 2:42 PM
To: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Cc: matthias.sayer@nglep.com
Subject: RE: [EXTERNAL] Next week's state line seismic response protocol discussion

External Email - Think Before You Click

Can you please send me a proposed agenda?

Thanks

From: Hussenoeder, Stefan <hussenoeder@exxonmobil.com>
Sent: Friday, March 4, 2022 3:40 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Next week's state line seismic response protocol discussion

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Adrienne,

I just wanted to give you a heads-up that I'm forwarding Friday afternoon's meeting notice to the rest of the State Line Seismicity Response Group. We've been meeting on a quasi-weekly basis since mid-2021, and at our last meeting all the operators expressed interest in attending. A few folks may elect to join in person (e.g., Matthias Sayer, Fred Verner, Lee Dula), but most will dial in remotely. Hopefully the room can accommodate a few visitors. Also, Cody Comiskey will likely lead the discussion on behalf of the state line operators this time.

Looking forward to our continued dialog,

Stefan A. Hussenoeder
Geoscience Technology Advisor
Unconventional Development (XTO)

ExxonMobil Upstream Oil & Gas
EMHC, W4.5A.358
22777 Springwoods Village Parkway
Spring, TX 77389

(832) 624-9924 (office) ; (713) 208-7967 (mobile)
Mysite: http://mysite.na.xom.com/Person.aspx?accountname=UPSTREAMACCTS%5Csahusse
Linkedin: https://www.linkedin.com/in/shussenoeder

AMERICAN OVERSIGHT

From: Rodriguez, Santiago, ENV <Santiago.Rodriguez1@state.nm.us>
Sent: Tuesday, April 19, 2022 10:18 AM EDT
To: John Smitherman <JRS@nmoga.org>
CC: Doug Ackerman <Doug@nmoga.org>; Baizel, Bruce, ENV <Bruce.Baizel@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Bahar, Dana, ENV <dana.bahar@state.nm.us>; Napolitano, Mia, ENV <Mia.Napolitano@state.nm.us>; Ortiz, Michael, ENV <michael.ortiz1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request
Attachment(s): "2022-04-18-EPD RCB Reply to NMOGA 20211020 (Final).pdf"

Good morning, John,

I am attaching the updated finalized response letter. Please discard the previous attachment. My apologies for any inconvenience.

Sincerely yours,

Santiago M. Rodriguez
Bureau Chief
Radiation Control Bureau
New Mexico Environment Department
O: (505) 476-8604
C: (505) 270-1930
F: (505) 476-8654
santiago.rodriguez1@state.nm.us
www.env.nm.gov
Twitter: @NMEnvDep | #IamNMED

"Innovation, Science, Collaboration, Compliance"

Please consider the environment before printing this email

From: Rodriguez, Santiago, ENV
Sent: Tuesday, April 19, 2022 7:03 AM
To: John Smitherman <JRS@nmoga.org>
Cc: Doug Ackerman <Doug@nmoga.org>; Baizel, Bruce, ENV <Bruce.Baizel@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Bahar, Dana, ENV <dana.bahar@state.nm.us>; Napolitano, Mia, ENV <Mia.Napolitano@state.nm.us>; Ortiz, Michael, ENV <michael.ortiz1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Good morning, John,

First and foremost thank you for your patience. I am attaching the finalized letter addressing items discussed on our call. We look forward to reviewing the guidance once you have a draft available for comment.

Have a great morning.

Sincerely yours,

Santiago

Santiago M. Rodriguez
Bureau Chief
Radiation Control Bureau
New Mexico Environment Department
O: (505) 476-8604
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santiago.rodriguez1@state.nm.us
www.env.nm.gov
Twitter: @NMEnvDep | #IamNMED

"Innovation, Science, Collaboration, Compliance"

Please consider the environment before printing this email

From: Roose, Rebecca, ENV <Rebecca.Roose@state.nm.us>
Sent: Wednesday, March 30, 2022 3:31 PM
To: John Smitherman <JRS@nmoga.org>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, ENV <Sydney.Conlon1@state.nm.us>; Ely, Sandra, ENV <Sandra.Ely@state.nm.us>; Bahar, Dana, ENV <dana.bahar@state.nm.us>; Rodriguez, Santiago, ENV <Santiago.Rodriguez1@state.nm.us>; Vigil, Christopher J, ENV <ChristopherJ.Vigil@state.nm.us>

AMERICAN OVERSIGHT

Subject: RE: [EXTERNAL] NORM meeting request

Hello John,

Thank you for reaching out last week. After connecting with our team and considering your meeting request, we believe a meeting to review the guidance is premature. We would appreciate it if you would send the final guidance to RCB Chief Santiago Rodriguez. He will review with his staff and legal counsel and then we'll evaluate whether follow-up discussion with you and others involved with the guidance development would be helpful.

Also, while I know several months have passed since our meeting last fall, we are finalizing some information to share with you as a result of a few action items/requests during that call. We expect to share that with you in the next week or two.

Regards,
Rebecca

Rebecca Roose
Deputy Cabinet Secretary of Administration
New Mexico Environment Department
Mobile: (505) 670-6852
Pronouns: she/her *(Why is this important?)*
Science, Innovation, Collaboration, Compliance - #IamNMED

From: John Smitherman <JRS@nmoga.org>
Sent: Thursday, March 24, 2022 9:06 AM
To: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, NMENV <Sydney.Conlon1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Thank you, Director. I will work with your Special Assistant to find an acceptable date. I would value your presence so we will look for a date that works for you.

Best,

John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer

From: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>
Sent: Wednesday, March 23, 2022 4:58 PM
To: John Smitherman <JRS@nmoga.org>
Cc: Doug Ackerman <Doug@nmoga.org>; Conlon, Sydney, NMENV <Sydney.Conlon1@state.nm.us>
Subject: RE: [EXTERNAL] NORM meeting request

Hi John,

Thanks for reaching out with an update and to request a meeting with our team.

Sydney Conlon, Special Assistant in the Office of the Secretary and copied here, can work with you directly to schedule the meeting. Please note that I will be out of state on April 21. Please let Sydney know if you would prefer to meet on April 21 with our Environmental Protection Division and Radiation Control Bureau staff (without me) or if you'd prefer a date and time the following week or thereafter when I would be able to attend.

Please also let Sydney know what room capacity we'll need. Our options for groups larger than 10 are quite limited.

Thanks again,
Rebecca

Rebecca Roose
Deputy Cabinet Secretary of Administration
New Mexico Environment Department
Mobile: (505) 670-6852
Pronouns: she/her *(Why is this important?)*
Science, Innovation, Collaboration, Compliance - #IamNMED

From: John Smitherman <JRS@nmoga.org>
Sent: Monday, March 21, 2022 3:06 PM
To: Roose, Rebecca, NMENV <Rebecca.Roose@state.nm.us>
Cc: Doug Ackerman <Doug@nmoga.org>; John Smitherman <JRS@nmoga.org>
Subject: [EXTERNAL] NORM meeting request

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Director,

AMERICAN OVERSIGHT

When we were both at the NMPWRC year end meeting in Las Cruces in December, I mentioned that we were working on a guidance document for Industry and Agency use. We are close to finalizing that document and would like to schedule a meeting with you, your staff and RCB staff to discuss how to move forward. This meeting will be most effective if we can meet in person (with, perhaps, a virtual option) as the issues are complex.

I propose that we meet in about four weeks to give us time to finalize our documents and prepare an informative presentation on NORM to put all of us on the same footing as to the risks and as to how the industry and agencies in other jurisdictions mange such risks. Can we meet at a place of your choice on Thursday, April 21st in the afternoon? An afternoon meeting will help with travel schedules for the out of town representatives who would like to attend. I do not have a count of how many want to attend yet but our workgroup consists of representatives from around twenty operators.

Thank you for you patience as we work through this important issue. Please let me know if you have any questions or other feedback.

All the best,

John R. Smitherman
New Mexico Oil & Gas Association
Senior Advisor - Petroleum Engineer

AMERICAN OVERSIGHT

April 18, 2022

Mr. John Smitherman
Senior Advisor
New Mexico Oil and Gas Association
P.O. Box 1884
Santa Fe, NM 87504

Dear Mr. John Smitherman,

Thank you for the opportunity to meet with the New Mexico Oil and Gas Association (NMOGA) concerning naturally occurring radioactive materials (NORM) in the Oil and Gas Industry on October 20, 2021. Before the meeting, you provided an agenda requesting clarity from New Mexico Environment Department (NMED or the Department) Radiation Control Bureau (RCB) regarding specific regulatory interpretation issues. NMED-RCB responses are as follows.

1. **What is the justification for requiring operators to apply for an exemption?**
   The NMED-RCB will not require operators to apply for an exemption. NMED must review documentation and conduct inspections to determine if an exemption claimed by an oil and gas operator validly applies. Pursuant to 20.3.14.1403 NMAC, NMED understands that an operator claiming an exemption to the NORM licensing requirements bears the burden to demonstrate that the exemption applies or otherwise complies with all requirements of 20.3.14 NMAC. Paragraphs A, C, and D of 20.3.14.1403 NMAC set forth threshold values for several exemptions that require the operator seeking the exemption to collect and analyze samples and conduct surveys.

2. **When must operators obtain specific licenses?**
   The following conditions require a specific license:
   a. The disposal and treatment of Regulated NORM (see 20.3.14.1411.C(1) NMAC).
   b. The transfer of Regulated NORM for long-term storage, treatment, or disposal (see 20.3.14.1411.C(2) NMAC).
   c. The storage* of Regulated NORM for greater than one-year (see 20.3.14.1409.D(1) and 20.3.14.1411.C(3) NMAC).
   d. Commercial or centralized facilities accepting Regulated NORM for treatment and/or disposal (see 20.3.14.1407.D(2) NMAC).
   e. The decontamination of equipment or facilities containing Regulated NORM (see 20.3.14.1411.C(1) NMAC).

   *Storage does not include the accumulation of Regulate NORM in operating vessels (20.3.14.7.O NMAC).

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3. **What is the ability of operators to rely on third-party specific licensees to conduct the activities that require a specific license under NMAC 20.3.14.1411?**
   The specific licensed Operators can hire third-party contractors if the contractor's specific license allows them to perform the services required by the operator. The transfer of Regulated NORM for long-term storage, treatment, or disposal requires the operator to have a specific license (see 20.3.14.1411.C(2) NMAC).

4. **What guidance does RCB have for operators?**
   Currently, our guidance to operators is limited to 20.3 NMAC and the compliance assistance spreadsheet located on our website. However, the RCB always welcomes the opportunity to collaborate with the industry to facilitate guidance concerning NORM in the Oil and Gas Industry. Relevant subparts of 20.3 NMAC include, but are not limited to, 20.3.3, 20.3.4, 20.3.13, and 20.3.14 NMAC.

5. **When are surveys of equipment and piping required?**
   The regulations require surveys:
   a.) before work on facilities or equipment,
   b.) before transfer of equipment (see 20.3.14.1406 NMAC),
   c.) before equipment removal,
   d.) where the pipe has been cleaned, and
   e.) where materials are known to have been spread, spilled, or stockpiled
   (see 20.3.14.1408 NMAC).

   As noted above, storage does not include the accumulation of Regulated NORM in operating vessels (20.3.14.7.O NMAC). NORM surveys must occur before maintenance for the operating vessels, at whatever frequency the operator performs the maintenance. Examples of maintenance that requires surveys before such activity include, but are not limited to, well workovers, tank bottom clean outs, filter exchanges, scale removal, and salvage. The NORM regulations also require surveys prior to transfer of equipment (see 20.3.14.1406, 20.3.14.1410.D and G, NMAC). Operators subject to the general license shall conduct radiation surveys of equipment and facilities in their control or possession and maintain that information on file (see 20.3.14.1408.A NMAC). The transfer regulated NORM for disposal is prohibited unless the operator possesses a specific license (see 20.3.14.1411.C(2) NMAC).

6. **What are the recordkeeping requirements for general licensees that contract with third-parties?**
   Record keeping for NORM survey data must be maintained by the operator for inspection by the Department (see 20.3.14.1410.H NMAC). Operators subject to the general license shall conduct radiation surveys of equipment and facilities in their control or possession and maintain that information on file (see 20.3.14.1408.A NMAC). Records of survey meter calibrations shall be maintained for Department inspection five years after the calibration date (see 20.3.14.1404.D NMAC).

Radiation survey instruments used to determine exemptions pursuant to 1403.C shall be capable of measuring from 1 microroentgens per hour through at least 500 microroentgens per hour. Laboratory analytical instrumentation used in accordance with 20.3.14.1404 NMAC must have a radiation detection

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system with an efficiency such that it is capable of measuring 1000 dpm/100 cm2 on filter paper. The efficiency of portable survey instruments must be such that when cpm is equated to dpm, the 1000 dpm/100cm2 limit is not exceeded

The RCB appreciates this opportunity to clarify specific regulatory interpretation issues that NMOGA has raised. NMED will continue to work with NMOGA's member companies. If any member companies have any further questions, they may contact:

Name: Thomas Collins, Environmental Scientist, NORM license coordinator
NMED-RCB, Montoya Building Suite 2022
Address: P.O. Box 5469
Santa Fe, NM 87502-5469
Email: Thomas.Collins@state.nm.us
Phone: 505-660-9108

Sincerely,

Santiago M. Rodriguez Digitally signed by Santiago M. Rodriguez
Date: 2022.04.18 11:19:09 -06'00'

Santiago M. Rodriguez, Chief
Radiation Control Bureau

cc: Bruce Baizel, General Counsel, NMED
Dana Bahar, Acting Environmental Protection Division Director
Adrienne Sandoval, Oil Conservation Division Director
Mia Napolitano, Assistant General Counsel, NMED
Mr. Doug Ackerman, President and CEO, NMOGA

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NM-EMNRD-22-0512-B-001455

From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 01, 2022 7:40 PM EDT
To: John Smitherman <JRS@nmoga.org>; Perez, Yolanda <Yolanda_perez@oxy.com>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
BCC: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: RE: [EXTERNAL] Re: Data Audit Volunteering & JCM

John and Yolanda,

Thank you for working to convene the NMOGA working group and your willingness to work with us to address the potential anomalies we are seeing in the waste rule data submitted to date. As you know, NM has a large number of operators and we have received large amount of data. Our preliminary reviews have shown there are some anomalies in the data that need to be explained or at a minimum addressed.

Does NMOGA have an existing task force are workgroup that could sit down and analyze the data that OCD has (all of which is public) and identify and evaluate discrepancies? In particular, we want to understand any differences in volumes reported in C-115s, C-115Bs, and C-129s. This audit could be conducted by NMOGA or a third party. OCD would be willing to exercise discretion for any corrections reported as part of this process so long as they are adequately explained.

To help kick this process off, we would like to set up an initial call to talk through some initial thoughts, during that meeting we can discuss next steps and process. At a minimum, the audit will need to help us understand any potential differences in data submitted on the C-115s, C-115Bs, and C-129.

Please work with Tiffany and Brandon to schedule a time to meet.

Thanks
Adrienne

From: John Smitherman <JRS@nmoga.org>
Sent: Tuesday, March 29, 2022 8:26 AM
To: Perez, Yolanda <Yolanda_perez@oxy.com>
Cc: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Re: Data Audit Volunteering & JCM

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Director,

Our Joint Committee Meeting tomorrow would be a nice opportunity for you to encourage operators to participate in a voluntary data audit. It would also afford an opportunity to give additional guidance on the operator questions that arose in and just after our forum on March 15th.

Can we reserve you some time to address our member representatives?

Thank you very much,

John R. Smitherman
Sent from my iPhone

> On Mar 21, 2022, at 1:17 PM, Perez, Yolanda <Yolanda_Perez@oxy.com> wrote:
>
> Happy Monday,
>
> Operators are wanting to understand what the audit process would like if they volunteer to work with OCD on data discrepancies. Is it as much as, “Can you please explain why there is a discrepancy between your vent volume on C-115 vs vent volume reported on C-115B?” Or, is it a more complicated/aggressive process than that?
>
> Also, NMOGA’s next JCM is next Wednesday, March 30th, from 1:30-3:30 MT. Do you have any interest in addressing the group?
>
> **Sincerely,**
> **Yolanda Perez**
> **Sr. Regulatory Affairs Consultant**
> **Occidental Oil & Gas**
> **5 Greenway Plaza Suite 110 Houston, TX 77046**
> **Room 11.023**
> **Office (713) 497-2069**
> **Cell (281) 793-1680**

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yolanda_perez@oxy.com

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From: Sandoval, Adrienne, EMNRD on behalf of Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Thursday, May 26, 2022 1:43 PM EDT
To: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
CC: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: Re: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

I think Rob put a bunch of ACO type documents in the folder. We should at least get that to them separately.

Anna please draft up a letter indicating what we are providing vs what we are trying contact them on to walk through.

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From: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Sent: Wednesday, May 25, 2022 1:50:31 PM
To: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Cc: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: RE: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Called Apache after I discussed with BP (yesterday?), left VM. No response yet.

Jesse K. Tremaine
Attorney, Office of General Counsel
New Mexico Energy, Minerals & Natural Resources Department
1220 South St. Francis Dr., Santa Fe, NM 87505
Cell: (505) 231-9312
E-mail: JesseK.Tremaine@state.nm.us

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From: Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Sent: Wednesday, May 25, 2022 1:33 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Cc: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: RE: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

A lot. Half-way done. Will be done today.

Rob Jackson ● Compliance Officer - Supervisor
EMNRD - Oil Conservation Division
1220 S. St. Francis Drive | Santa Fe, NM 87505
505.660.2501| rob.jackson@state.nm.us

http://www.emnrd.state.nm.us/OCD/

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Wednesday, May 25, 2022 1:30 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Cc: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: Re: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Reminder on this.

Brandon I think Jesse is going to touch base with Apache and set a meeting.

Rob- any docs?

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From: Sandoval, Adrienne, EMNRD
Sent: Thursday, May 19, 2022 3:01:52 PM
To: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>
Cc: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Brandon/Rob- Please see the attached IPRA request and the additional information below adding some clarification to what they are asking for. Generally it sounds like any field compliances/ACOs etc associated with the companies in the letter. Please send Anna any response by EOB the 25th.

Thanks
Adrienne

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Thursday, May 19, 2022 2:26 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Hello Dir. Sandoval,
Thank you. Please see the clarification notes sent from the requestor, Blake Johnson of Apache Corp., at the bottom of this email.
For you reference, see original request and the OCD IPRA 3-Day response (sent 5-06-22 see attached) citing request for extension.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Squires, Anna, EMNRD
Sent: Wednesday, May 18, 2022 3:05 PM
To: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Jesse,
After review of this IPRA, The attached 3 Day letter was sent to Mr. Blake Johnson, on time, however there have not yet been any responsive docs.
Would this IPRA need to go to the custodian of records for State Land Office (?)
(See Mr. Johnsons clarifications below)
Advise when you can, Thank you.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Squires, Anna, EMNRD
Sent: Wednesday, May 11, 2022 3:41 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Sita, Susan, EMNRD <Susan.Sita@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Subject: FW: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

Hello Dir. Sandoval, Susan and Jesse,
Please See email communication below, sent from IPRA requestor; Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp.
(See attached IPRA response for reference). OCD provided the 3 Day response last Friday: 05-06-2022, requesting specific information.

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NOTE IPRA DUE: 5-18-2022.
Advise when you all can, thank you.

Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Johnson, Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 10, 2022 11:57 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] RE: DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

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Hi Anna,

Thank you so much for the quick response. I am asking really to understand anything that might be affecting ZPZ or any of its affiliates . While this specific request is for a lease we are transferring with the State Land Office, we are trying to conduct an audit of all potential violations so we can have them identified. To my knowledge, ZPZ nor any of its affiliates have any properties, facilities, wells etc. located on the lands in question being E/2SE/4, W/2SW/4, Section 17, 19S-28E, Eddy County, New Mexico.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

From: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Sent: Friday, May 6, 2022 7:05 PM
To: Johnson, Blake <Blake.Johnson@apachecorp.com>
Cc: Sita, Susan, EMNRD <Susan.Sita@state.nm.us>
Subject: [EXTERNAL] DUE 05-06-22 IPRA OCD 3DAY RESP. TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delaware I LLC affiliates Apache Corp

---

May 6, 2022

To: Apache Corporation
Att; C/O Blake Johnson
2000 Post Oak Blvd, Suite 100,
Houston, TX 77056
Ph: 281- 302-2606
email: blake.johnson@apachecorp.com

Mr. Blake Johnson,
Pursuant to the Inspection of Public Records Act NMSA 1978, Chapter 14, Article 2., the Oil Conservation Division (OCD) received your request for records via email on; 05-03-22.

Please see attached OCD IPRA Correspondence entitled: *05-06-2022 IPRA OCD 3-Day Response Letter TO Blake Johnson of Apache Corp. REQ. Record of Violations for ZPZ Delware I LLC affiliates Apache Corp.*,
and advise at your earliest convienance.

Respectfully,

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Anna Squires
EMNRD - Oil Conservation Division
Administrative Svcs. Coordinator | IPRA Contact
Ph. 505.490.2162
Anna.Squires@state.nm.us

From: Blake <Blake.Johnson@apachecorp.com>
Sent: Tuesday, May 3, 2022 8:38 AM
To: Squires, Anna, EMNRD <Anna.Squires@state.nm.us>
Subject: [EXTERNAL] Request to inspect public records

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning Ms. Squires.

Please see the attached request to inspect the public records.

Thank you,

Blake J

BLAKE JOHNSON
LANDMAN
Permian Land
direct 281-302-2606
blake.johnson@apachecorp.com
APACHE CORPORATION
2000 Post Oak Blvd #100
Houston, Texas 77056

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 7:46 PM EDT
To: Greaves, David <david.greaves@exxonmobil.com>
Subject: RE: [EXTERNAL] RE: Proposed Meeting Times

That works for us. I will send an invite shortly, attendees on our end will likely be the following:

Myself
Tiffany Polak – Deputy Director
Jim Griswold – Special projects Bureau Chief
Mike Bratcher- Incidents Supv
Jesse Tremaine- OCD Counsel

From: Greaves, David <david.greaves@exxonmobil.com>
Sent: Tuesday, April 12, 2022 2:12 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] RE: Proposed Meeting Times

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Hi Adrienne – How about Friday 9:30-11 MT then?

Also, I left you a voice message. Please call when free so we can talk for a minute about the Friday call. Thanks.

David Greaves
SHE, Regulatory & Production Accounting Manager - Permian
XTO Energy, a subsidiary of ExxonMobil
david.greaves@exxonmobil.com
Cell: 281-636-9970
Phone: 432-221-7334

From: Sandoval, Adrienne, EMNRD [mailto:Adrienne.Sandoval@state.nm.us]
Sent: Tuesday, April 12, 2022 3:00 PM
To: Greaves, David <david.greaves@exxonmobil.com>
Subject: RE: Proposed Meeting Times

External Email - Think Before You Click

One small correction, Friday we can only do 830-11MT

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 9:48 AM
To: David.Greaves@exxonmobil.com
Subject: Proposed Meeting Times

Hi David –

Below are a list of possible times to meet regarding the cleanup we discussed yesterday. Please let me know what will work for XTO.

Friday: 830-12MST
Monday: 230-5MST

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 5:12 PM EDT
To: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Subject: RE: [EXTERNAL] RE: Summary of State Regulations for TENORM
Attachment(s): "Summary of State Regulations for TENORM in Oil and Gas-New Mexico.docx"

Sorry, this one slipped, here you go.

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, April 11, 2022 9:25 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] RE: Summary of State Regulations for TENORM
Importance: High

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Good morning Adrienne,
I just wanted to send a reminder regarding the TENORM State Regulations questionnaire. We would greatly appreciate New Mexico's response by **Thursday, April 14th**. If you have any questions, don't hesitate to contact me.
Thanks,
Kaitlyn

From: Kaitlyn Smith
Sent: Monday, March 28, 2022 10:32 AM
To: Adrienne Sandoval <adrienne.sandoval@state.nm.us>
Subject: Summary of State Regulations for TENORM
Importance: High

Good morning Adrienne,

As discussed during the Annual Conference, the Environment and Safety Committee is in the process of updating the 2008 Naturally Occurring Radioactive Materials (NORM) Guidance Document. This comprehensive report assists member states and provinces in the development of NORM guidelines and management.

We are asking you to help with this project by completing the attached questionnaire and linking all rules, guidelines, and associated forms that regulate the production, storage, treatment, remediation, disposal, licensing and training requirements, and all associated activities regarding Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) generated from oil and gas operations. Include any regulations that are enforced by other agencies within your state. I have also attached the 2008 NORM Guidance Document if you wanted to review New Mexico's previous response.

Please return your questionnaire to me by **Thursday, April 7th**. If New Mexico has more than one agency, please have all agencies complete the attached questionnaire.

This information will assist IOGCC's efforts to update the 2008 NORM Guidance Document.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



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Summary of State Regulations for TENORM in Oil and Gas

Please provide current links to relevant information (e.g., rules, guidelines, and associated forms). If your state has more than one agency, please have all of the agencies complete the questionnaire.

Regulatory agency(s) and jurisdiction(s):

Energy, Minerals & Natural Resources Department, Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
505-476-3441

New Mexico Environment Department, Radiation Control Bureau
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505
505-476-8600

Relevant statutes/regulations:

19.15.35.9 NMAC through 19.15.35.14 NMAC; Waste Disposal
https://www.srca.nm.gov/wp-content/uploads/attachments/19.015.0035.pdf

20.3.14 NMAC; Naturally Occurring Radioactive Materials in the Oil and Gas Industry
https://www.srca.nm.gov/wp-content/uploads/attachments/20.003.0014.pdf

Licensing (generators or commercial activities):

Disposal of regulated NORM on or near the surface of the ground is done pursuant to a general license issued by the New Mexico Environment Department. Before a commercial or centralized facility may accept regulated NORM for treatment and/or disposal, the operator of the facility must obtain both a specific license issued by the New Mexico Environment Department and a surface waste management facility permit from the Oil Conservation Division.

Remediation of facilities (land and equipment):

Soil - <30 picocuries per gram of Radium 226 and <150 picocuries per gram for all other radionuclides

Equipment - <50 microroentgens per hour

Disposal of NORM (e.g., downhole, injection, landfill):

Downhole – Allowed in a plugged and abandoned well with Oil Conservation Division approval at a depth of at least 100 feet below the lower most known underground source of drinking water. There must be evidence that there is cement across that drinking water zone. A cement plug dyed with red iron oxide must be placed directly above the NORM and at the surface.

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Injection – For injection into a Underground Injection Control (UIC) Class I or II disposal well, only NORM from the operator's operations can be injected with approval from the Oil Conservation Division and into a zone at least 100 feet below the lower most known underground source of drinking water. Each time NORM is injected, the Oil Conservation Division must be notified. For injection into a UIC Class II enhanced recovery well, injection can occur only after notice and a hearing wherein the applicant must demonstrate that the injection will not reduce the ultimate recovery of hydrocarbons and will not cause an increase in the level of NORM from a producing well located either within or offsetting the project area.

Landfill – There currently are no landfills in New Mexico with the proper license or permit for the acceptance of regulated NORM.

Non-retrieved flowlines and pipelines – Allowed with approval from the Oil Conservation Division and an explanation as to why it is more beneficial to leave the pipeline in place than retrieve it. Such approval will be conditioned upon the flushing of hydrocarbons and produced water from the pipe, proof of notice to the surface owner(s), and all accessible points being permanently capped. No additional NORM may be placed into the pipe other than that which accumulated during normal operations.

Monitoring of NORM in drilling, production, processing, transportation, and storage:

Persons subject to a general license must undertake radiation surveys of equipment and facilities in their control or possession and maintain that information on file. Surveys must be conducted prior to working on facilities or equipment where a potential release of NORM could occur or where workers could be exposed, prior to any transfer of equipment or salvage, prior to equipment removal from any facility, where pipe has been cleaned, or at facilities where materials are known to have been spread, spilled, or stockpiled. These surveys must be conducted using proper equipment and by knowledgeable personnel.

Release, sale or recycle of contaminated land and equipment (owned or leased):

No facility can be transferred where the concentration of Radium 226 in soil exceeds 30 picocuries per gram above background. The landowner must be notified prior to mixing of soils.

Facilities and equipment containing regulated NORM cannot be released for unrestricted use but they can be transferred provided the facilities or equipment are to be used for the same or similar purpose. Equipment containing regulated NORM may be released for maintenance or overhaul provided the recipient is specifically licensed to perform such activity.

Training requirements for operators, surveyors, etc.:

There are currently no specific NORM training requirements for operators or surveyors.

Recent NORM litigation:

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There has been no recent litigation in New Mexico concerning NORM in the oil and gas industry.

What NORM procedures does your state follow in plugging orphan wells and remediating well sites:

The Oil Conservation Division adheres to our NORM-related regulations when plugging orphan wells and remediating orphan well sites. All materials removed from wells (sucker rods, tubing, etc.) and surface infrastructure (tanks, heater treaters, separators, etc.) are surveyed for the presence of regulated NORM before disposal or salvage.

Additional information:

None

Respondent:

Jim Griswold
Oil Conservation Division
5200 Oakland Ave. NE
Albuquerque, New Mexico 87113
505-660-1067
jim.griswold@state.nm.us

AMERICAN OVERSIGHT

From: Scott Anderson <SAnderson@edf.org>
Sent: Tuesday, January 25, 2022 10:49 AM EST
To: Leonard - DNR, Mike <mike.leonard@state.co.us>; Larry Harlan <topcorpllh@gmail.com>
CC: Rob Boulware <boulwarer@srcx.com>; Eubank, Jerry D <Jerry_Eubank@oxy.com>; Nicole.StAmand@shell.com <Nicole.StAmand@shell.com>; Gaines, Dean <Dean.Gaines@apachecorp.com>; Helms, Lynn D. <lhelms@nd.gov>; Winn, Lisa <lisa.winn@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kevin O'Scannlain <oscannlaink@api.org>; Wei Wang <wei.wang@rrc.texas.gov>; Wilcoxon, Bruce <bruce.wilcoxon@bakerhughes.com>; Stephanie Meadows <meadows@api.org>; Hilary Olson <holson@utexas.edu>
Subject: RE: [EXTERNAL] Re: Update

Yes, thanks and congratulations!

From: Leonard - DNR, Mike <mike.leonard@state.co.us>
Sent: Tuesday, January 25, 2022 9:33 AM
To: Larry Harlan <topcorpllh@gmail.com>
Cc: Scott Anderson <SAnderson@edf.org>; Rob Boulware <boulwarer@srcx.com>; Eubank, Jerry D <Jerry_Eubank@oxy.com>; Nicole.StAmand@shell.com; Gaines, Dean <Dean.Gaines@apachecorp.com>; Helms, Lynn D. <lhelms@nd.gov>; Winn, Lisa <lisa.winn@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kevin O'Scannlain <oscannlaink@api.org>; Wei Wang <wei.wang@rrc.texas.gov>; Wilcoxon, Bruce <bruce.wilcoxon@bakerhughes.com>; Stephanie Meadows <meadows@api.org>; Hilary Olson <holson@utexas.edu>
Subject: [EXTERNAL] Re: Update

Larry,
Thanks for all the work you have done and congratulations to Hilary

On Mon, Jan 24, 2022 at 5:56 PM Larry Harlan <topcorpllh@gmail.com> wrote:

> TOPCORP Advisory Council
>
> I want to update you on a change happening at TOP Energy Training.
>
> The Top Energy Training leadership team and I have reached a mutual agreement for the transition of the Executive Director position. Dr. Hilary Olson, with the University of Texas at Austin's Hildebrand Department of Petroleum and Geosystems Engineering, will assume the role of Executive Director and become the primary contact for Top Energy Training and TOPCORP. Hilary is copied on this note and can be reached at that email address.
>
> I want to thank you all for serving on the Advisory Council and for your support and advice. I'm sure Hilary will enjoy the same relationship. I have enjoyed my four and one-half years working with TOPCORP and wish you all continued success.
>
> Larry L. Harlan
>
> email: topcorpllh@gmail.com
> www.TopEnergyTraining.com

--

Mike Leonard

Compliance Unit Manager

C 719.343.0130

1120 Lincoln Street, Suite 801, Denver, CO 80203

mike.leonard@state.co.us | www.colorado.gov/cogcc

"The most important single ingredient in the formula of success is knowing how to get along with people." – Theodore Roosevelt

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AMERICAN OVERSIGHT

From: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Sent: Tuesday, May 10, 2022 3:51 PM EDT
To: James Griffin <James_Griffin@eogresources.com>; cwalls@blm.gov <cwalls@blm.gov>; jstovall@blm.gov <jstovall@blm.gov>; Rutley, James S <JRutley@blm.gov>; CLayton@blm.gov <CLayton@blm.gov>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
CC: Patrick Padilla <Patrick_Padilla@eogresources.com>; Jordan Kessler <Jordan_Kessler@eogresources.com>
Subject: RE: [EXTERNAL] RE: WIWG Drilling Best Practices Feedback on Updated R-111

Hello all,
Apologies for the delayed response we have had a lot of personnel out of office the last few weeks. OCD has met and landed on some additional feedback. OCD is having one additional internal meeting this week and then plans to schedule with BLM to align feedback.
Stay tuned,
Tiffany

From: James Griffin <James_Griffin@eogresources.com>
Sent: Monday, April 25, 2022 5:00 PM
To: cwalls@blm.gov; jstovall@blm.gov; Rutley, James S <JRutley@blm.gov>; CLayton@blm.gov; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>
Cc: Patrick Padilla <Patrick_Padilla@eogresources.com>; Jordan Kessler <Jordan_Kessler@eogresources.com>
Subject: [EXTERNAL] RE: WIWG Drilling Best Practices Feedback on Updated R-111

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Hello,

I hope you all have been well. I wanted to reach out to see how the feedback was coming along. If there are any questions I can answer, please let me know and I'll be happy to help.

Thanks,

eog resources
James Griffin
Drilling Engineer
EOG Resources Midland
Office: 432-686-3650
Cell: 432-638-5269
Email: James_Griffin@EOGResources.com

From: James Griffin
Sent: Thursday, March 31, 2022 1:52 PM
To: cwalls@blm.gov; jstovall@blm.gov; Rutley, James S <JRutley@blm.gov>; CLayton@blm.gov; Tiffany.Polak@state.nm.us; Brandon.Powell@state.nm.us; adrienne.sandoval@state.nm.us; Phillip.Goetze@state.nm.us
Cc: Podust, Alex V <alex.v.podust@exxonmobil.com>; Petley, William Edward <william.e.petley@exxonmobil.com>
Subject: WIWG Drilling Best Practices Feedback on Updated R-111

Hello,

Thank you all for attending the meeting, I believe it was very productive and contained a great deal of good discussion. As you and your respective teams review the 3-String and 4-String open annulus, please reach out to myself or Alex (cc'd) with any questions in regards to the design that you may have. Again the major points we need feedback on are Figure's A and C respectively. Figure B seems like it'll likely be cut from the document, but we will wait for your final feedback on that. I have attached the draft that was discussed today for your convenience.

Once we get your feedback/comments, we will incorporate them into what we hope will be the final draft. I'll take the liberty of finalizing that draft and distributing accordingly. Once that is finalized, we can decide at that point how we want to proceed (likely to hearing).

Thanks,

eog resources
James Griffin
Drilling Engineer
EOG Resources Midland
Office: 432-686-3650
Cell: 432-638-5269
Email: James_Griffin@EOGResources.com

AMERICAN OVERSIGHT

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Monday, April 11, 2022 1:55 PM EDT
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: RE: [EXTERNAL] Summary of State Regulations for TENORM

Jim- have you been able to do this survey? It was due last week.

From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 1, 2022 9:53 AM
To: Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Cc: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: FW: [EXTERNAL] Summary of State Regulations for TENORM
Importance: High

Jim- Can you assist with this survey please? Though, I really think Emily did something similar to this a year or so ago but can't find it in my files. They want it back by the 7th.

From: Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>
Sent: Monday, March 28, 2022 9:32 AM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: [EXTERNAL] Summary of State Regulations for TENORM
Importance: High

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good morning Adrienne,

As discussed during the Annual Conference, the Environment and Safety Committee is in the process of updating the 2008 Naturally Occurring Radioactive Materials (NORM) Guidance Document. This comprehensive report assists member states and provinces in the development of NORM guidelines and management.

We are asking you to help with this project by completing the attached questionnaire and linking all rules, guidelines, and associated forms that regulate the production, storage, treatment, remediation, disposal, licensing and training requirements, and all associated activities regarding Technologically Enhanced Naturally Occurring Radioactive Materials (TENORM) generated from oil and gas operations. Include any regulations that are enforced by other agencies within your state. I have also attached the 2008 NORM Guidance Document if you wanted to review New Mexico's previous response.

Please return your questionnaire to me by **Thursday, April 7th**. If New Mexico has more than one agency, please have all agencies complete the attached questionnaire.

This information will assist IOGCC's efforts to update the 2008 NORM Guidance Document.

Thank you,

Kaitlyn Smith
Technical Coordinator
Interstate Oil and Gas Compact Commission
900 NE 23rd St
Oklahoma City, OK 73105
Office: 405-522-8387
Cell: 713-294-6829



AMERICAN OVERSIGHT

From: Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>
Sent: Tuesday, March 15, 2022 5:50 PM EDT
To: Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: RE: [EXTERNAL] UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

And bringing up the rear, I have uploaded to Teams the two remaining documents:

Disclosure of Lobbying Activities SFLLL-V1.1.pdf
Key_Contacts OMB Form 4040-0010.pdf
No instructions (if there are any) as I was not able to log in yet.

This prompted me to meet Matthew Lovato and he will work his magic (assign a role) by tomorrow AM.

Hope you are all having a fine day.

R

From: Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>
Sent: Tuesday, March 15, 2022 2:38 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: RE: [EXTERNAL] UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

I uploaded these forms from grants.gov to the teams files.

- SF-424v4 Application for Federal Assistance
- SF-424A Budget Information for Non-Construction Programs

Thank you,
AV
Amy Herrera Vermersch
Data Compliance Manager
Oil Conservation Division-Aztec
Office Phone: 505-334-6178 EXT 113
Cell Phone: 505-469-6972

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Tuesday, March 15, 2022 2:16 PM
To: Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>
Subject: FW: [EXTERNAL] UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

See below.

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, March 15, 2022 11:08 AM
Subject: [EXTERNAL] UPDATE: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.
Greetings,

I have a brief update for you on the draft initial grant guidance. Since our meeting last week, DOI has been revising the draft to address your comments and concerns. The draft should be released for state and stakeholder review soon, possibly as early as tomorrow. Please keep an eye out for it. Once we have the draft, we will quickly schedule a states-only virtual session to review it.

Also, Steve Tryon has clarified that states will be submitting their initial grant applications by email attachment. You will not enter the information directly into DOI's grant management system just yet. You may wish to begin reviewing the required federal forms if you have not already done so. They are all available at grants.gov. The following forms will be required:

- SF-424v4 Application for Federal Assistance
- SF-424A Budget Information for Non-Construction Programs
- SF-LLL Disclosure of Lobbying Activities
- OMB Form 4040-0010 Key Contacts Form

In addition, DOI will be providing a form for the certification required for initial grants.

Best,
Lori

AMERICAN OVERSIGHT

From: Amy Childers <amy.childers@iogcc.state.ok.us>
Sent: Thursday, March 10, 2022 11:12 AM
To: cindy.mulkey@dep.state.fl.us; Dianne Jones <dianne.jones@iogcc.state.ok.us>; lhelms@nd.gov; catherine.dickert@dec.ny.gov; dennis.hatfield@ky.gov; henry.j.harmon@wv.gov; r.hoffman@kcc.ks.gov; sbelieu@nogcc.ne.gov; adrienne.sandoval@state.nm.us; colleen.forrest@rrc.texas.gov; tracie.paladijczuk@alaska.gov; jarrett.ellis@state.co.us; shaymus.schweitzer@dec.ny.gov; uduak-joe.ntuk@conservation.ca.gov; courtney.kasberg@conservation.ca.gov; dylan.fuge@state.nm.us; johnrogers@utah.gov; yuvaraj.sivalingam@conservation.ca.gov; thomas.hisgen@dec.ny.gov; jhalvorson@mt.gov; tom.kropatsch@wyo.gov; gregory.scott@dec.ny.gov; Benjamin.Spears2@la.gov; bartkettle@utah.gov; david.andrews@state.co.us; roxanne.reiley@tn.gov; willoughbye@michigan.gov; matthew.podniesinski@dec.ny.gov; gina.cavender@ky.gov; kklapkowsk@pa.gov; gary.looney@aogc.state.ar.us; patrick.amole1@wyo.gov; azogcc@azdeq.gov; julie.murphy@state.co.us; trey.powell@conservation.ca.gov; d.wietharn@kcc.ks.gov; eric.nickell@state.co.us; aaron.szapa@dnr.mo.gov; johnbaza@utah.gov; bhicks@nd.gov; jnew@ogb.state.ms.us; hwise@pa.gov; twallace@pa.gov; andrea.1208@me.com; b.parker@kcc.ks.gov; jennbrandt@pa.gov; bob.brinkmann@oregon.gov; virginia.hullinger@occ.ok.gov; Brad.Ice@occ.ok.gov; MARK.BRADY@LA.GOV; rivesta@michigan.gov; wiwalsh@pa.gov; donna.ensign@dec.ny.gov; mbohrer@nd.gov; katie.vance2@la.gov; Roby.fulkerson@la.gov; katherine.calogero@dec.ny.gov; broyer@dnr.in.gov; paula_m_estornell@ios.doi.gov; Marvin.combs@ky.gov; s.duffy@kcc.ks.gov; msuchodols@pa.gov; andrew.adgate@dnr.state.oh.us; dustindoucet@utah.gov; bjones@mt.gov; molly.michaelson@maryland.gov; natashaballif@utah.gov; elidavis@pa.gov; alvaro.linero@dep.state.fl.us; Vincent.Agusiegbe@conservation.ca.gov; kmcquillan@ogb.state.al.us; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; zee.sr.priest@dogami.oregon.gov; abdel.zellou@conservation.ca.gov; brad.boyd@energy.virginia.gov; wyganta@michigan.gov; lydia.sinemus@energy.virginia.gov; sarah.gilmer@energy.virginia.gov; dan.brennan@illinois.gov; craig.hagy@energy.virginia.gov; nate.pearson@state.co.us; Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>; majordano@pa.gov; brooke.colley@energy.virginia.gov; rdloumer@nd.gov; dsnodgrass@ogb.state.ms.us; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; cori.troutman@ky.gov; Jeremy.price@alaska.gov; Henderson, Rick (EGLE) <hendersonr2@michigan.gov>; adtabor@nd.gov; cwvanderbusch@nd.gov; kidderk1@michigan.gov; bribailey@pa.gov; gordonr.slone@ky.gov; hilary.porter@alaska.gov; reneea.lofton@dogami.oregon.gov; ecushman@pa.gov; bbabb@pa.gov; ted.loukides@dec.ny.gov; bryan.mclellan@alaska.gov; josephkel@pa.gov; erika.giorgi@conservation.ca.gov; blair.linford@energy.virginia.gov; Maureen.Nwangene@conservation.ca.gov; rreiley@pa.gov; jryder@pa.gov; frankthorwald@thorwaldgroup.com; eric.vendel@dnr.ohio.gov; amber.steele@dnr.mo.gov; kahaarsager@nd.gov
Subject: Thank you for joining the Meeting with DOI on DRAFT initial grant guidance.

Good morning,

Thank you for your participation in yesterday's meeting with DOI on DRAFT initial grant guidance. We will make sure to get the initial grant guidance to you as soon as DOI releases the document.

If you plan to submit comments to the DOI orphanedwells@ios.doi.gov , can you please copy me?

Thank you!

Amy M. Childers
Executive Project Manager
Interstate Oil and Gas Compact Commission
Business phone (405) 522-8384
Cell phone (405) 642-8074
amy.childers@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 01, 2022 7:29 PM EDT
To: Perez, Yolanda <Yolanda_Perez@oxy.com>
CC: Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
BCC: Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>
Subject: RE: [EXTERNAL] Volunteer

Hi Yolanda-

Thank you for volunteering to audit your C115-B. OCD appreciates your willing to scrutinize your prior submittals to help us understand differences in the various databases we maintain. OCD is willing to exercise discretion with respect to any corrections voluntarily reported as part of this process.

To help kick this process off, we would like to set up an initial call to talk through some initial thoughts, during that meeting we can discuss next steps and process. At a minimum, the audit will need to help us understand any potential differences in data submitted by Oxy on your C-115s, C-115Bs, and C-129.

Please coordinate with Tiffany/Brandon to find a good time.

Thanks
Adrienne

From: Perez, Yolanda <Yolanda_Perez@oxy.com>
Sent: Wednesday, March 23, 2022 1:21 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>
Subject: [EXTERNAL] Volunteer

CAUTION: This email originated outside of our organization. Exercise caution prior to clicking on links or opening attachments.

Good afternoon,

Wanted to let you know that I obtained management approval for Oxy (OGRIDs 16696, 192463, and 157984) to volunteer to work with OCD on our C-115B/C-115 reporting anomalies. Please let me know what all this will entail and what are next steps to begin working with you on this.

Thank you for the opportunity!

Sincerely,
Yolanda Perez
Sr. Regulatory Affairs Consultant
Occidental Oil & Gas
5 Greenway Plaza Suite 110 Houston, TX 77046
Room 11.023
Office (713) 497-2069
Cell (281) 793-1680
yolanda_perez@oxy.com

AMERICAN OVERSIGHT

From: Bea Ann Phillips <bphillips@bplanning.net>
Sent: Friday, July 16, 2021 5:12 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: Re: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Hi Adrienne,
Your confirmation # is 28359354. Arrive the 15th. Depart the 17th. Let me know if you need anything further!

Sent from my Verizon, Samsung Galaxy smartphone
Get Outlook for Android

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, July 16, 2021 12:58:59 PM
To: Bea Ann Phillips <bphillips@bplanning.net>
Subject: RE: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Hi Bea Ann- Just wanted to circle back on this. I haven't seen confirmations or anything come through, though it could have gone to my spam folder. Was there anything I needed to do on my end?

Thanks

From: Sandoval, Adrienne, EMNRD
Sent: Thursday, July 8, 2021 1:27 PM
To: Bea Ann Phillips <bphillips@bplanning.net>
Subject: RE: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Thanks! Let me know if there is anything you need from me.

From: Bea Ann Phillips <bphillips@bplanning.net>
Sent: Thursday, July 8, 2021 1:24 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Subject: Re: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Ok Adrienne.
cc'ing Cynthia on this. I'll make your reservation.

Bea Ann
Bea Ann Phillips
BPlanning Meeting Management, LLC
(o) 703-503-0738
(c) 703-966-3226
bphillips@bplanning.net

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Thursday, July 8, 2021 3:05 PM
To: Bea Ann Phillips <bphillips@bplanning.net>
Subject: FW: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Hi Bea Ann-

Any assistance that IOGCC can provide for hotel coverage for the meeting would be much appreciated. I believe that I will be driving up and will arrive afternoon of the 15th, leaving afternoon of the 17th.

Thanks!
Adrienne

From: Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>
Sent: Wednesday, July 7, 2021 2:30 PM
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: FW: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Subject: IOGCC Special Meeting - Hotel Arrangements - August 15 - 17, 2021

Greetings!

We are looking forward to seeing everyone at the IOGCC Special Meeting on August 15 – 17, 2021. For those who have requested a scholarship for hotel, please notify Bea Ann Phillips atbphillips@bplanning.net with your details on your arrival and departure.

We can't wait to see everyone!

AMERICAN OVERSIGHT

Cynthia L. McCollum
Administrative Coordinator
Interstate Oil & Gas Compact Commission
Cynthia.mccollum@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Wednesday, August 11, 2021 5:21 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; Charlie Burd <cburd@gowv.com>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Russell Retherford <rretherford@dnr.in.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmondmt@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Julie M. Murphy <julie.murphy@state.co.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Lucy Blocker <lucy.blocker@state.sd.us>; Adam Peltz <apeltz@edf.org>; Leslie Savage <Leslie.Savage@rrc.texas.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Kimberly Wurtz <kimberly.a.wurtz@gmail.com>; Virginia Hullinger <V.Hullinger@occemail.com>; Haarsager, Katie A. <kahaarsager@nd.gov>
CC: Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Bea Ann Phillips <bphillips@bplanning.net>
Subject: RE: IOGCC Special Meeting, August 15-17, 2021, Colorado Springs, CO
Attachment(s): "Agenda.pdf","Logistics.pdf"

The final agenda is attached. We also updated the sheet of logistical information to address a few questions we received. Please take a couple of minutes to read through it and let us know if you have any more questions. In addition, you will receive a small packet of handouts when we gather in Colorado Springs.

If you have not already, please remember to let Bea Ann know if you will not be joining us for dinner on Sunday or if you will bring a guest. Bea Ann needs this information by noon ET on Friday so she may give the hotel an accurate count for the order.

Safe travels and see you in Colorado Springs!

From: Lori Wrotenbery
Sent: Friday, August 6, 2021 3:20 PM
To: Adam W. Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; Charlie Burd <cburd@gowv.com>; Eric Vendel <eric.vendel@dnr.state.oh.us>; Frank Thorwald <frankthorwald@thorwaldgroup.com>; Jeremy Price <jeremy.price@alaska.gov>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Russell Retherford <rretherford@dnr.in.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmondmt@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Julie M. Murphy <julie.murphy@state.co.us>; Dan Brennan <dan.brennan@illinois.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Lucy Blocker <lucy.blocker@state.sd.us>; Adam Peltz <apeltz@edf.org>; Leslie Savage <Leslie.Savage@rrc.texas.gov>; Robyn Strickland <Robyn.Strickland@occ.ok.gov>; Kimberly Wurtz <kimberly.a.wurtz@gmail.com>; Virginia Hullinger <V.Hullinger@occemail.com>; Haarsager, Katie A. <kahaarsager@nd.gov>
Cc: Amy Childers <amy.childers@iogcc.state.ok.us>; Kaitlyn Smith <Kaitlyn.Smith@iogcc.state.ok.us>; Bea Ann Phillips <bphillips@bplanning.net>
Subject: IOGCC Special Meeting, August 15-17, 2021, Colorado Springs, CO

Dear Participants,

The special meeting in Colorado Springs is about a week away. Attached is a sheet of logistical information along with the latest draft of the meeting agenda. Please let us know if you have any questions we have not addressed in these materials.

We are so excited about seeing everyone!

Best regards,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

AMERICAN OVERSIGHT

IOGCC Special Meeting
Colorado Springs, CO
Agenda

Sunday, August 15, 2021

Time	Event	Location
6:00 PM–6:30 PM	**Reception**	**Remingtons**
6:30 PM—8:00 PM	**Welcome/Dinner**	**Remingtons**

Monday, August 16, 2021

Time	Event	Location
7:30 AM—8:30 AM	**Breakfast**	**Grand Rivers**
8:30 AM—9:45 AM	**IOGCC Business**	**Grand Rivers**

Introductions

Update of Official Representative Handbook (Draft)

Process for Committee Appointments/Directory Updates

9:45 AM—10:00 AM	**Break**	
10:00 AM—11:15 AM	**IOGCC Business**	**Grand Rivers**

Discussion of Assessments

Other Administrative Items

11:15 AM—12:00 PM	**Lunch**	**Grand Rivers Terrace**
12:15 PM—2:15 PM	**Guided Tour by Bus**	**Garden of the Gods**
2:30 PM—3:45 PM	**IOGCC Business**	**Grand Rivers**

Discussion of Resolutions Process

Review of Progress on Key Issues Identified in Medora (Idle/Orphan Wells, Produced Water, Carbon, Training, Funding)

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3:45 PM—4:00 PM	**Break**	
4:00 PM—5:15 PM	**IOGCC Business**	**Grand Rivers**

Plan for Strategic Plan Update

Review and Discussion of Prior Goal Statements and 2021 Member Survey Results

Tuesday, August 17, 2021

Time	Event	Location
7:30 AM—8:30 AM	**Breakfast**	**Grand Rivers**
8:30 AM—9:45 AM	**IOGCC Business**	**Grand Rivers**

Orphan Well Funding Legislation

Other Federal Updates (Legislation, Regulation, Memoranda of Understanding)

9:45 AM—10:00 AM	**Break**	
10:00 AM—11:30 PM	**IOGCC Business**	**Grand Rivers**

Discussion of Action Plans with Standing Committee Chairs/Vice-Chairs
- Energy Resources, Research and Technology—Adam Peltz, Vice-Chair
- Environment and Safety—Leslie Savage, Chair and Robyn Strickland, Vice-Chair
- Legal and Regulatory Affairs—Kimberly Wurtz, Vice-Chair
- Public, Coastal, and Tribal Lands—Virginia Hullinger, Vice-Chair
- Public Outreach—Katie Haarsager, Vice-Chair

Preparations for Annual Conference

11:30 AM—11:45 PM **Wrap Up and Adjourn**

AMERICAN OVERSIGHT

IOGCC SPECIAL MEETING
COLORADO SPRINGS, CO

August 15-17, 2021

LOGISTICS

We are looking forward to seeing you in Colorado Springs! Here is some information we gathered to help you prepare for the trip. If you have logistical questions that are not addressed here, please contact Bea Ann Phillips at bphillips@bplanning.net.

1. Meeting Location

Cheyenne Mountain Resort
3225 Broadmoor Valley Rd
Colorado Springs, CO 80906
Telephone: 719-538-4000
cheyennemountain.com

Check-in time is 4:00 PM and check-out time is 11:00 AM.

We have confirmed that everyone receiving this information has a room reservation. Any special requests regarding accommodations not previously specified should be communicated as soon as possible to Bea Ann Phillips by email.

All meeting sessions will take place in the Grand Rivers Room at the resort. For meal locations, see 6. below.

2. Ground Transportation

From Colorado Springs Airport to Cheyenne Mountain Resort:
There is no shuttle to the resort. Cabs are available at the airport. Uber and Lyft are also options; however, you will need to allow ample time for them to arrive. Ride sharing services are experiencing delays across the country.

Back to Colorado Springs Airport:
IOGCC is providing a shuttle back to the airport for those interested. It will depart promptly at 12:00 noon on Tuesday and you will need to let Bea Ann know in advance if you would like to be on it. If there is demand for an additional shuttle at a slightly later time, we will arrange one.

Monday excursion to Garden of the Gods:
IOGCC has engaged a bus and guide for this tour.

Monday evening:
IOGCC is providing a shuttle between Cheyenne Mountain Resort and a couple of dining locations. The shuttle will stop at the Edelweiss Restaurant and Biergarten and at a spot in downtown Colorado Springs near several restaurants. To reserve your space on the shuttle, you will need to sign up with Bea Ann on Monday morning. The shuttle will leave the resort at 6:00 PM and make the return trip at 9:00 PM.

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3. Dress Code

The attire for all meetings and meals is mountain casual. Be comfortable. Temperatures in Colorado Springs in August typically range from highs in the 80s to lows in the 50s.

4. Altitude

Colorado Springs sits at 6,000 feet (higher than Denver) and altitude sickness can creep up on you. It's important to stay well hydrated, monitor alcohol and food consumption, and take it easy when you arrive.

5. Covid Protocols

All modes of public transportation, including Uber/Lyft, cabs, and the bus we will use for our Monday excursion, require masks. Please remember to bring you own masks.

The hotel is not currently requiring guests to wear masks in the public spaces of the resort. We will keep you informed if protocols at the resort change before the meeting.

You will make your individual decision whether to wear a mask in the meeting room. Your decision will be respected by all. We will have individually wrapped alcohol wipes available in the meeting room.

6. Meals

IOGCC will provide dinner on Sunday, August 15, breakfast and lunch on Monday, August 16, and breakfast on Tuesday, August 17. If you have any food allergy or other special dietary need, please inform Bea Ann Phillips by email as soon as possible.

The reception and dinner on Sunday is currently scheduled to be held in Remingtons on the Lobby Level of the resort. Bea Ann is exploring with the resort the possibility of moving the reception and dinner outdoors.

We need a headcount for the Sunday dinner. Let Bea Ann know if you will not be joining us. Also, if you have a guest who would like to join us for the reception and dinner, let Bea Ann know as soon as possible and no later than noon ET on Friday, August 13.

Breakfast and lunch on Monday and breakfast on Tuesday will be served near the Grand Rivers Room. Outdoor seating will be available for the breakfasts, and lunch on Monday is scheduled for the Grand Rivers Terrace.

You will be on your own for dinner on Monday. Bea Ann will share with you a list of area restaurants. See 2. above for information on the shuttle.

7. Contacts

Lori Wrotenbery
IOGCC
Mobile: 405-921-1892
Lori.Wrotenbery@iogcc.state.ok.us

Bea Ann Phillips
BPlanning Meeting Management, LLC
Mobile: 703-966-3226
bphillips@bplanning.net

Amy Childers
IOGCC
Mobile: 405-642-8074
Amy.Childers@iogcc.state.ok.us

Kaitlyn Smith
IOGCC
Mobile: 713-294-6829
Kaitlyn.Smith@iogcc.state.ok.us

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Friday, August 20, 2021 5:24 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: RE: Model Statutes

https://iogcc.ok.gov/model-statutes

Thanks for coming to the special meeting. Have a great weekend!

From: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Sent: Friday, August 20, 2021 4:16 PM
To: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Subject: Model Statutes

Hi Lori – At the meeting it was mentioned that IOGCC has model statutes, where can I find those?

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

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From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 3:59 PM EDT
To: David.Greaves@exxonmobil.com <David.Greaves@exxonmobil.com>
Subject: RE: Proposed Meeting Times

One small correction, Friday we can only do 830-11MT

From: Sandoval, Adrienne, EMNRD
Sent: Tuesday, April 12, 2022 9:48 AM
To: David.Greaves@exxonmobil.com
Subject: Proposed Meeting Times

Hi David –

Below are a list of possible times to meet regarding the cleanup we discussed yesterday. Please let me know what will work for XTO.

Friday: 830-12MST
Monday: 230-5MST

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

AMERICAN OVERSIGHT

From: Lori Wrotenbery <LWrotenbery@iogcc.state.ok.us>
Sent: Tuesday, August 10, 2021 5:24 PM EDT
To: Adam W. Wygant <wyganta@michigan.gov>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Berry H. "Nick" Tew, Jr. <ntew@ogb.state.al.us>; Charlie Burd <cburd@gowv.com>; David Shabazian <david.shabazian@conservation.ca.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; J. Dale Nations <dalenations2@gmail.com>; Jeff Robbins <jeff.robbins@state.co.us>; Jeremy Price <jeremy.price@alaska.gov>; Jess New <Jnew@ogb.state.ms.us>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Mark Watson <Mark.watson@wyo.gov>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; Richard Ieyoub <richard.Ieyoub@la.gov>; Russell Retherford <rretherford@dnr.in.gov>; Scott R. Perry <scperry@pa.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmond@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; William S. Daugherty <billd@blackridgeusa.com>
CC: FrankThorwald@thorwaldgroup.com <FrankThorwald@thorwaldgroup.com>; Shane Khoury <Shane.Khoury@arkansas.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; cindy.mulkey@dep.state.fl.us <cindy.mulkey@dep.state.fl.us>; dan.brennan@illinois.gov <dan.brennan@illinois.gov>; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; dennis.hatfield@ky.gov <dennis.hatfield@ky.gov>; Gary P. Ross <gary.ross@la.gov>; Molly Michaelson -MDE- <molly.michaelson@maryland.gov>; Jim Halvorson <jhalvorson@mt.gov>; Martin Brand <martin.brand@dec.ny.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Haase, Reice J. <rhaase@nd.gov>; michael.lees@state.sd.us <michael.lees@state.sd.us>; Travis McCormick <travis.mccormick@rrc.texas.gov>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; james.a.martin@wv.gov <james.a.martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>; Cheryl.Wolff@nebraska.gov <Cheryl.Wolff@nebraska.gov>; Victoria Tran <Victoria.Tran@ee.ok.gov>; Robyn Strickland <robyn.strickland@occ.ok.gov>; Stratton Edwards <sedwards@capitolhillcg.com>
Subject: RE: UPDATE 4: IOGCC Governors Letter of Support for S. 1076, the Revive Economic Growth and Reclaim Orphan Wells (REGROW) Act of 2021
Attachment(s): "IOGCC Guide to Orphaned Well Provisions of Infrastructure Investment and Jobs Act.pdf"

UPDATE 4:

Earlier today the Senate passed REGROW as part of the Infrastructure Investment and Jobs Act. It now goes to the House, where the path is not yet clear. We probably won't know more until September.

I updated IOGCC's draft guide for states to reflect the few changes that were made to REGROW when it was incorporated into the infrastructure bill. The only significant change to the state grant provisions is that contracts issued with grant funds will be subject to Davis-Bacon prevailing wage requirements. Citations are included in the guide.

From: Lori Wrotenbery
Sent: Sunday, August 1, 2021 9:32 PM
To: 'Adam W. Wygant' <wyganta@michigan.gov>; 'Adrienne Sandoval' <adrienne.sandoval@state.nm.us>; 'Berry H. "Nick" Tew, Jr.' <ntew@ogb.state.al.us>; 'Charlie Burd' <cburd@gowv.com>; 'David Shabazian ' <david.shabazian@conservation.ca.gov>; 'Eric Vendel' <eric.vendel@dnr.state.oh.us>; 'J. Dale Nations ' <dalenations2@gmail.com>; 'Jeff Robbins' <jeff.robbins@state.co.us>; 'Jeremy Price' <jeremy.price@alaska.gov>; 'Jess New' <Jnew@ogb.state.ms.us>; 'John R. Baza' <johnbaza@utah.gov>; 'Kenneth Wagner ' <kenneth.wagner@ee.ok.gov>; 'Lawrence E. Bengal' <larry.bengal@aogc.state.ar.us>; 'Lynn D. Helms' <lhelms@nd.gov>; 'Mark Watson' <Mark.watson@wyo.gov>; 'Michael Visher' <mvisher@minerals.nv.gov>; 'Mick Thomas' <mthomas@idl.idaho.gov>; 'Richard Ieyoub' <richard.Ieyoub@la.gov>; 'Russell Retherford' <rretherford@dnr.in.gov>; 'Scott R. Perry' <scperry@pa.gov>; 'Stan Belieu' <sbelieu@nogcc.ne.gov>; 'Susan K. Duffy' <s.duffy@kcc.ks.gov>; 'Tom Richmond' <tomrichmond@gmail.com>; 'Wayne Christian' <wayne.christian@rrc.texas.gov>; 'William S. Daugherty' <billd@blackridgeusa.com>
Cc: 'FrankThorwald@thorwaldgroup.com' <FrankThorwald@thorwaldgroup.com>; 'Shane Khoury' <Shane.Khoury@arkansas.gov>; 'Uduak-Joe Ntuk' <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; 'cindy.mulkey@dep.state.fl.us' <cindy.mulkey@dep.state.fl.us>; 'dan.brennan@illinois.gov' <dan.brennan@illinois.gov>; 'Ryan A. Hoffman' <r.hoffman@kcc.ks.gov>; 'dennis.hatfield@ky.gov' <dennis.hatfield@ky.gov>; 'Gary P. Ross' <gary.ross@la.gov>; 'Molly Michaelson -MDE-' <molly.michaelson@maryland.gov>; 'Jim Halvorson' <jhalvorson@mt.gov>; 'Martin Brand' <martin.brand@dec.ny.gov>; 'Catherine Dickert' <catherine.dickert@dec.ny.gov>; 'Haase, Reice J.' <rhaase@nd.gov>; 'Mike Lees' <michael.lees@state.sd.us>; 'Travis McCormick' <travis.mccormick@rrc.texas.gov>; 'Skorupa, James' <phil.skorupa@dmme.virginia.gov>; 'James Martin ' <James.A.Martin@wv.gov>; 'Tom Kropatsch' <tom.kropatsch@wyo.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>; 'Cheryl.Wolff@nebraska.gov' <Cheryl.Wolff@nebraska.gov>; 'Victoria Tran' <Victoria.Tran@ee.ok.gov>; 'Robyn Strickland' <robyn.strickland@occ.ok.gov>; 'Stratton Edwards' <sedwards@capitolhillcg.com>
Subject: RE: UPDATE 3: IOGCC Governors Letter of Support for S. 1076, the Revive Economic Growth and Reclaim Orphan Wells (REGROW) Act of 2021

UPDATE 3:

Stratton Edwards forwarded the attached text of the bipartisan infrastructure bill, which is hot off the presses. It includes a title based on REGROW (starting on page 1744), along with a separate title with the appropriations (starting on page 2572).

We will review these provisions line by line tomorrow morning to identify any amendments that have been made.

From: Lori Wrotenbery
Sent: Friday, June 25, 2021 2:25 PM
To: Adam W. Wygant <wyganta@michigan.gov>; Adrienne Sandoval <adrienne.sandoval@state.nm.us>; Berry H. "Nick" Tew, Jr.

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<ntew@ogb.state.al.us>; Charlie Burd <cburd@gowv.com>; David Shabazian <david.shabazian@conservation.ca.gov>; Eric Vendel <eric.vendel@dnr.state.oh.us>; J. Dale Nations <dalenations2@gmail.com>; Jeff Robbins <jeff.robbins@state.co.us>; Jeremy Price <jeremy.price@alaska.gov>; Jess New <Jnew@ogb.state.ms.us>; John R. Baza <johnbaza@utah.gov>; Kenneth Wagner <kenneth.wagner@ee.ok.gov>; Lawrence E. Bengal <larry.bengal@aogc.state.ar.us>; Lynn D. Helms <lhelms@nd.gov>; Mark Watson <Mark.watson@wyo.gov>; Michael Visher <mvisher@minerals.nv.gov>; Mick Thomas <mthomas@idl.idaho.gov>; Richard Ieyoub <richard.Ieyoub@la.gov>; Russell Retherford <rretherford@dnr.in.gov>; Scott R. Perry <scperry@pa.gov>; Stan Belieu <sbelieu@nogcc.ne.gov>; Susan K. Duffy <s.duffy@kcc.ks.gov>; Tom Richmond <tomrichmond@gmail.com>; Wayne Christian <wayne.christian@rrc.texas.gov>; William S. Daugherty <billd@blackridgeusa.com>
Cc: FrankThorwald@thorwaldgroup.com; Shane Khoury <Shane.Khoury@arkansas.gov>; Uduak-Joe Ntuk <uduak-joe.ntuk@conservation.ca.gov>; Julie M. Murphy <julie.murphy@state.co.us>; cindy.mulkey@dep.state.fl.us; dan.brennan@illinois.gov; Ryan A. Hoffman <r.hoffman@kcc.ks.gov>; dennis.hatfield@ky.gov; Gary P. Ross <gary.ross@la.gov>; Molly Michaelson -MDE- <molly.michaelson@maryland.gov>; Jim Halvorson <jhalvorson@mt.gov>; Martin Brand <martin.brand@dec.ny.gov>; Catherine Dickert <catherine.dickert@dec.ny.gov>; Haase, Reice J. <rhaase@nd.gov>; Mike Lees <michael.lees@state.sd.us>; Travis McCormick <travis.mccormick@rrc.texas.gov>; Skorupa, James <phil.skorupa@dmme.virginia.gov>; James Martin <James.A.Martin@wv.gov>; Tom Kropatsch <tom.kropatsch@wyo.gov>; Amy Childers <amy.childers@iogcc.state.ok.us>; Cynthia McCollum <cynthia.mccollum@iogcc.state.ok.us>; Cheryl.Wolff@nebraska.gov; Victoria Tran <Victoria.Tran@ee.ok.gov>; Robyn Strickland <robyn.strickland@occ.ok.gov>; Stratton Edwards <sedwards@capitolhillcg.com>
Subject: UPDATE 2: IOGCC Governors Letter of Support for S. 1076, the Revive Economic Growth and Reclaim Orphan Wells (REGROW) Act of 2021

UPDATE 2:

As we hoped, the language we helped draft has made its way into the discussion of infrastructure legislation. Senator Manchin included the text of the REGROW Act in a discussion draft of legislation that is expected to provide the basis for the energy portion of an infrastructure agreement.

Click here to find the discussion draft and the recorded webcast of a hearing held yesterday by the full Senate Energy and Natural Resources Committee.

In the discussion draft, you will find the orphan well provisions on pages 352-383. They track the REGROW Act except that the name of the act is now the Energy Infrastructure Act.

At the hearing, the statements on orphan well funding were brief but supportive. Statements were made by Senator Manchin at 35:44 minutes into the recording, by Tanya Trujillo on behalf of the Department of Interior at 52:20, by Chris French on behalf of the Department of Agriculture at 58:57, and by Collin O'Mara on behalf of the National Wildlife Federation at 1:05:44.

From: Lori Wrotenbery
Sent: Wednesday, June 16, 2021 5:12 PM
To: [IOGCC Official Representatives]
Subject: UPDATE: IOGCC Governors Letter of Support for S. 1076, the Revive Economic Growth and Reclaim Orphan Wells (REGROW) Act of 2021

UPDATE:

The Public Lands, Forests, and Mining Subcommittee of the Senate Energy and Natural Resources Committee held a hearing this afternoon on fourteen bills, including the REGROW Act of 2021 (S. 1076). Senator Cramer made a strong statement on REGROW and featured the letter from the IOGCC governors.

You may view the recording of the hearing here. Senator Cramer's statement occurred at 48:12-52:42 on the recording. In addition, Nada Culver's testimony on behalf of the Bureau of Land Management included a statement of support for REGROW at 1:00:35-1:01:05, and Chris French expressed support on behalf of the Forest Service at 1:06:45-1:07:23.

From: Lori Wrotenbery
Sent: Wednesday, May 26, 2021 3:14 PM
To: [IOGCC Official Representatives]
Subject: RE: IOGCC Governors Letter of Support for S. 1076, the Revive Economic Growth and Reclaim Orphan Wells (REGROW) Act of 2021

Dear IOGCC Official Representatives,

Attached is the signed letter for your records. Thank you for communicating with your governors on this important issue.

Sincerely,
Lori

Lori Wrotenbery
Executive Director
Interstate Oil and Gas Compact Commission
Lori.Wrotenbery@iogcc.state.ok.us
405-522-8381

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Infrastructure Investment and Jobs Act
Section 40601. Orphaned Well Site Plugging, Remediation, and Restoration

Guide for States
Prepared by the Interstate Oil and Gas Compact Commission (IOGCC)

Provisions generally applicable to state grants:

- A list of allowable uses of grant funds appears in Section 349(c)(2).*
- States may use up to 10% of grant funds for administrative purposes. See Section 349(c)(2)(B).
- States use their own definitions and procedures for plugging and remediation. See for example Section 349(a)(5) and (c)(4)(B).
- The Secretary of Interior administers the grants, but the Secretary's discretion is limited. See for example Section 349(c)(3)(B), (4)(C), and (5)(C).
- Davis-Bacon Act prevailing wage provisions apply to grant-funded contracts. See Section 41201 of Infrastructure Investment and Jobs Act.

Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Initial Grants ($775 million appropriation)						
Larger initial grant	Up to $25 million.	349(c)(3)(A)(i)	State estimates the number of jobs that will be created or saved and certifies that state: • Is an IOGCC member, • Has at least one documented orphaned well, and	State must submit request for funding within 180 days of enactment.		

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
			• Will obligate at least 90% of funds to grants or contracts within 90 days of receipt.			
Smaller initial grant	Up to $5 million. Not subject to general 10% limitation on administrative costs.	349(c)(3)(A)(ii)	State does not receive a grant under clause (i) and certifies that state: • Has a program or the capacity to initiate a program, or • Will use funds to develop an application for formula grant or performance grant.			
General provisions for initial grants		349(c)(3)(B)-(D)		Secretary must distribute funds within 30 days after receipt of request.	State must return unobligated funds one year after date of receipt. Appropriated funds remain available to Secretary until	Within 15 months of receipt of funds, state must report to Secretary how funds were used in accordance with state's certification.

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
					September 30, 2030. See 349(h).	
Formula Grants ($2 billion appropriation)						
	Formula determined by Secretary accounting for these factors: • Oil and gas job losses between 3/1/2020 and date of enactment. • Number of documented orphaned wells and projected costs of plugging and remediation.	349(c)(4)	Act specifies contents of application. See 349(c)(4)(B).	State must submit notice of intent to apply within 45 days of enactment. Notice must include information on factors to be used by Secretary to determine formula. Within 75 days of enactment, Secretary must publish amount each state is eligible to receive. Application period is opened ended. Secretary must issue funds within 60 days of receiving complete application.	State must return unobligated funds five years after date of receipt. Appropriated funds remain available to Secretary until September 30, 2030. See 349(h).	

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Performance Grants ($1.5 billion appropriation)						
General provisions for performance grants		349(c)(5)	Act specifies contents of application. See 349(c)(5)(B).	States may submit applications beginning 180 days after receipt of initial grant. Application period is open ended. Secretary must issue funds within 60 days of receiving complete application.	Appropriated funds remain available to Secretary until September 30, 2030. See 349(h).	Performance grants have a 10-year lookback period. See 349(c)(5)(E)(i) and (F)(i). Regulatory improvement grants have a 10-year clawback provision. See 349(c)(5)(E)(iii).
Regulatory improvement grants	Up to $20 million	349(c)(5)(E)(i)(I)	State strengthened plugging standards and procedures.			
	Up to $20 million	349(c)(5)(E)(i)(II)	State reduced future orphaned well burdens.			

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Grant Type/Subtype	Per State Grant Amount	Section of Energy Policy Act	Eligibility/Qualifications	Application/Funding Deadline	Expenditure Deadline	Other Requirements
Matching grants	Total of $30 million	349(c)(5)(F)	State increased amount of state funds to be expended on plugging and reclamation.			Not more than one grant per fiscal year 2022 through 2031.

[*] Under Section 349(c)(2)(A), a state may use grant funding for any of the following purposes:

- To plug, remediate, and reclaim orphaned wells located on State-owned or privately owned land.
- To identify and characterize undocumented orphaned wells on State and private land.
- To rank orphaned wells based on factors including public health and safety; potential environmental harm; and other land use priorities.
- To make information regarding the use of funds received under this subsection available on a public website.
- To measure and track emissions of methane and other gases associated with orphaned wells, and contamination of groundwater or surface water associated with orphaned wells.
- To remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure.
- To remediate land adjacent to orphaned wells and decommission or remove associate pipelines, facilities, and infrastructure.
- To identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.
- To administer a program to carry out any of these activities, provided that, except for an initial grant up to $5 million, a State may not use more than 10 percent of the funds received during a fiscal year for administrative costs.

AMERICAN OVERSIGHT

New Mexico State Government
Rapid Hire Event

SANTA FE

COVID SAFE PRACTICES: WE ARE TAKING THE UTMOST CAUTION TO PROTECT OUR COMMUNITY FROM COVID-19 AND ABIDING BY ALL LOCAL, STATE AND FEDERAL LAWS.



JANUARY 2022
6, 7, 11 AND 12
2-7 PM

WILLIE ORTIZ BUILDING
2550 CERRILLOS RD
SANTA FE, NM 87505

EVENT SCHEDULE

- JAN 6: FINANCE POSITIONS
- JAN 7: HUMAN RESOURCES POSITIONS
- JAN 11: OPEN POSITIONS WITH DEPARTMENTS OF HEALTH AND HUMAN SERVICES
- JAN 12: OPEN POSITIONS WITH DEPARTMENTS OF ENERGY, MINERALS AND NATURAL RESOURCES AND ENVIRONMENT

Virtual interviews will be made available from the New Mexico Workforce Connection in Albuquerque located at 501 Mountain Rd.

ABOUT THE RAPID HIRE EVENT

The State of New Mexico is looking to quickly hire for entry level to upper management positions! A multiple day Rapid Hire event is scheduled for January 6th through the 12th in Santa Fe! During the Rapid Hire event, qualified applicants will be interviewed by the hiring state agency on-site and find out about a job offer **same day or shortly after.**

WHAT TO BRING

- Multiple copies of your updated resume
- Three professional references
- Proof of right to work in the U.S.
- Dress for success
- **Suggested* - Copy of unofficial transcripts for highest level of education achieved

For more information and/or to request accommodations, contact the New Mexico Workforce Connection, Santa Fe office at **505-355-1758**

NM-EMNRD-22-0512-B-001491

Subject: Seismic Event Update
Location: Microsoft Teams Meeting

Start: Thursday, November 18, 2021 5:30 PM EST
End: Thursday, November 18, 2021 6:00 PM EST
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Cody Comiskey <cody.comiskey@chevron.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Optional Attendees: Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>; Rose-Coss, Dylan H, EMNRD <DylanH.Rose-Coss@state.nm.us>

Microsoft Teams meeting

Join on your computer or mobile app
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+1 505-312-4308,,917593998# United States, Albuquerque
Phone Conference ID: 917 593 998#
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Learn More | Meeting options

AMERICAN OVERSIGHT

Subject: Seismic Plan Comment Walk through
Location: Microsoft Teams Meeting

Start: Wednesday, November 03, 2021 3:00 PM EDT
End: Wednesday, November 03, 2021 4:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Rose-Coss, Dylan H, EMNRD <DylanH.Rose-Coss@state.nm.us>; Verner, Frederick C <fredverner@chevron.com>; John Smitherman <JRS@nmoga.org>; Matthias Sayer <Matthias.Sayer@nglep.com>
Optional Attendees: Perez, Yolanda <Yolanda_Perez@oxy.com>; Munds-Dry, Ocean (LDZX) <Ocean.Munds-Dry@conocophillips.com>; Comiskey, Cody <cody.comiskey@chevron.com>; Doug Klepacki <dklepacki@cimarex.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Dula, Lee M <lee.m.dula@exxonmobil.com>; Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Ashley Bergen <abergen@cimarex.com>

Fred – please forward to appropriate people on your end

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+1 505-312-4308,,449584598# United States, Albuquerque

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AMERICAN OVERSIGHT

Subject: Seismic Plan Walkthrough
Location: Microsoft Teams Meeting

Start: Tuesday, October 26, 2021 5:00 PM EDT
End: Tuesday, October 26, 2021 6:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Rose-Coss, Dylan H, EMNRD <DylanH.Rose-Coss@state.nm.us>; Verner, Frederick C <fredverner@chevron.com>; John Smitherman <JRS@nmoga.org>; Matthias Sayer <Matthias.Sayer@nglep.com>
Optional Attendees: Perez, Yolanda <Yolanda_Perez@oxy.com>; Munds-Dry, Ocean (LDZX) <Ocean.Munds-Dry@conocophillips.com>; Comiskey, Cody <cody.comiskey@chevron.com>; Doug Klepacki <dklepacki@cimarex.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Stephen Flaherty <sflaherty@cimarex.com>; Ames, Eric, EMNRD <Eric.Ames@state.nm.us>

Fred- Please forward to anyone appropriate on your end.

Microsoft Teams meeting

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+1 505-312-4308,,42035359# United States, Albuquerque
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Learn More | Meeting options

AMERICAN OVERSIGHT

Subject: Seismic Response Protocol
Location: 1220 S. St Francis (third floor)

Start: Monday, March 14, 2022 5:00 PM EDT
End: Monday, March 14, 2022 6:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; matthias.sayer@nglep.com <matthias.sayer@nglep.com>
Optional Attendees: Doug White <Doug.White@nglep.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; Jessica High <Jessica.High@h2obridge.com>; Doug Klepacki <Doug.Klepacki@coterra.com>; Nick Hines <nhines@oilfieldwaterlogistics.com>; rick.johnston@swbell.net <rick.johnston@swbell.net>; Comiskey, Cody <cody.comiskey@chevron.com>; Tim Harrington <tharrington@mewbourne.com>; Christian Holcomb <Christian.Holcomb@nglep.com>; Michael Reitz <Michael.Reitz@h2obridge.com>; Mathews, Gregory S. <GregMathews@chevron.com>; Dula, Lee M <lee.m.dula@exxonmobil.com>; Verner, Frederick C <fredverner@chevron.com>; Martin, Jacob <JacobMartin@chevron.com>; Winn, Lisa <lisa.winn@exxonmobil.com>; John C Webb <John.Webb@nglep.com>; Langton, David <David.Langton@dvn.com>; John Smitherman <JRS@nmoga.org>

Microsoft Teams meeting

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Phone Conference ID: 238 130 684#
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Learn More | Meeting options

AMERICAN OVERSIGHT

Subject: Seismic Update Meeting
Location: 1220 S. St Francis (third floor) and Microsoft Teams Meeting

Start: Wednesday, May 11, 2022 3:00 PM EDT
End: Wednesday, May 11, 2022 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Cody Comiskey <cody.comiskey@chevron.com>
Optional Attendees: Doug White <Doug.White@nglep.com>; Jessica High <Jessica.High@h2obridge.com>; Michael Reitz <Michael.Reitz@h2obridge.com>; Christian Holcomb <Christian.Holcomb@nglep.com>; Doug Klepacki <Doug.Klepacki@coterra.com>; Martin, Jacob <JacobMartin@chevron.com>; Verner, Frederick C <fredverner@chevron.com>; Matthias Sayer <Matthias.Sayer@nglep.com>; Hussenoeder, Stefan <hussenoeder@exxonmobil.com>; rick.johnston@swbell.net <rick.johnston@swbell.net>; John C Webb <John.Webb@nglep.com>; Tim Harrington <tharrington@mewbourne.com>; Dula, Lee M <lee.m.dula@exxonmobil.com>; Luck, Kaitlyn, EMNRD <Kaitlyn.Luck@state.nm.us>; Romero, RosaM, EMNRD <RosaM.Romero@state.nm.us>; Goetze, Phillip, EMNRD <Phillip.Goetze@state.nm.us>; Langton, David <David.Langton@dvn.com>; Conf-Den-535 <Conf-Den-535@nglep.com>

Microsoft Teams meeting

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+1 505-312-4308,,995295590# United States, Albuquerque
Phone Conference ID: 995 295 590#
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Learn More | Meeting options

AMERICAN OVERSIGHT

Subject: Seismic Update
Location: Microsoft Teams Meeting

Start: Friday, September 17, 2021 10:30 AM EDT
End: Friday, September 17, 2021 11:30 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Winn, Lisa <lisa.winn@exxonmobil.com>; John Smitherman <JRS@nmoga.org>; Verner, Frederick C <fredverner@chevron.com>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>
Optional Attendees: Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Denard, Melissa Marie <melissa.m.denard@exxonmobil.com>; Lamkin, Baylen, EMNRD <Baylen.Lamkin@state.nm.us>

Microsoft Teams meeting

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Phone Conference ID: 363 163 623#
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Learn More | Meeting options

AMERICAN OVERSIGHT

Subject: Soil Based Carbon Sequestration
Location: Microsoft Teams Meeting

Start: Wednesday, September 22, 2021 10:00 AM EDT
End: Wednesday, September 22, 2021 10:30 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Haffey, Collin, EMNRD <Collin.Haffey@state.nm.us>; Klass, Jeremy , EMNRD <Jeremy.Klass@state.nm.us>; Hall, James A <james.hall@exxonmobil.com>
Optional Attendees: jmaitland@nmda.nmsu.edu <jmaitland@nmda.nmsu.edu>; McCarthy, Laura, EMNRD <Laura.McCarthy@state.nm.us>

Microsoft Teams meeting

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Phone Conference ID: 136 347 484#
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Learn More | Meeting options

AMERICAN OVERSIGHT

IOGCC SPECIAL MEETING
COLORADO SPRINGS, CO

August 15-17, 2021

LOGISTICS

We are looking forward to seeing you in Colorado Springs! Here is some information we gathered to help you prepare for the trip. If you have logistical questions that are not addressed here, please contact Bea Ann Phillips at bphillips@bplanning.net.

1. Meeting Location

Cheyenne Mountain Resort
3225 Broadmoor Valley Rd
Colorado Springs, CO 80906
Telephone: 719-538-4000
cheyennemountain.com

Check-in time is 4:00 PM and check-out time is 11:00 AM.

We have confirmed that everyone receiving this information has a room reservation. Any special requests regarding accommodations not previously specified should be communicated as soon as possible to Bea Ann Phillips by email.

All meeting sessions will take place in the Grand Rivers Room at the resort. Breakfast and lunch on Monday and breakfast on Tuesday will be served in adjacent spaces.

2. Ground Transportation

From the airport to Cheyenne Mountain Resort:
There is no shuttle to the resort. Cabs are available at the airport. Uber and Lyft are also options; however, you will need to allow ample time for them to arrive. Ride sharing services are experiencing delays across the country.

Back to the airport:
IOGCC is arranging a shuttle back to the airport for those interested. It will depart promptly at 12:15 PM on Tuesday and you will need to let us know in advance if you would like to be on it. If there is demand for an additional shuttle at a slightly later time, we will arrange one.

Monday excursion to Garden of the Gods:
IOGCC has engaged a bus and guide for this tour.

Monday evening:
IOGCC is arranging a shuttle between Cheyenne Mountain Resort and downtown Colorado Springs. The shuttle will leave the resort at 6:00 PM and return at 9:00 PM.

AMERICAN OVERSIGHT

3. Dress Code

The attire for all meetings and meals is mountain casual. Be comfortable. Temperatures in Colorado Springs in August typically range from highs in the 80s to lows in the 50s.

4. Altitude

Colorado Springs sits at 6,000 feet (higher than Denver) and altitude sickness can creep up on you. It's important to stay well hydrated, monitor alcohol and food consumption, and take it easy when you arrive.

5. Covid Protocols

The hotel is not currently requiring masks for guests. However, all public transportation, including Uber, cabs, and the bus we will use for our Monday afternoon excursion, do require masks. We will keep you informed if protocols change between now and then.

6. Meals

IOGCC will provide dinner on Sunday, August 15, breakfast and lunch on Monday, August 16, and breakfast on Tuesday, August 17. If you have any food allergy or other special dietary need, please inform Bea Ann Phillips by email as soon as possible.

The reception and dinner on Sunday will be in Remingtons on the Lobby Level of the resort. Let Bea Ann know if you will not be joining us. We need a headcount for that meal. Also, if you have a guest who would like to join us for dinner on Sunday, let Bea Ann know.

You will be on your own for dinner on Monday. Bea Ann will share with you a list of area restaurants.

7. Contacts

Lori Wrotenbery
IOGCC
Mobile: 405-921-1892
Lori.Wrotenbery@iogcc.state.ok.us

Bea Ann Phillips
BPlanning Meeting Management, LLC
Mobile: 703-966-3226
bphillips@bplanning.net

Amy Childers
IOGCC
Mobile: 405-642-8074
Amy.Childers@iogcc.state.ok.us

Kaitlyn Smith
IOGCC
Mobile: 713-294-6829
Kaitlyn.Smith@iogcc.state.ok.us

AMERICAN OVERSIGHT

	A	B	C	D	E	F	G	H	I	J	K
1	Data Element	US Well ID/API	Well ID Data Source	Well Name	Well Type	Producing Geologic Formation	Surface Managing Entity	Surface Managing Entity Name	Subsurface Managing Entity	Subsurface Managing Entity Name	State
2	*Example*	*15426874565414*	*API*	*Durham Ranche*	*Oil*	*Mesavrede*	*State*	*N/A*	*State*	*N/A*	*AL*

AMERICAN OVERSIGHT

	L	M	N	O	P	Q	R	S	T	U	V
1	Tribe	County	Latitude	Longitude	Horizontal Datum	Location Accuracy	Pre-Plugging Methane Emissions (grams/hr)	Post-Plugging Methane Emissions (grams/hr)	Methane Measurement Method	Habitat Restored (acres)	Restoration Endpoint
2		*Littletown*	*34.62045*	*74.45325*	*NAD83*	*Estimated*	*3*	*ND*	*High Flow Samp*	*3.00*	

AMERICAN OVERSIGHT

	W	X	Y	Z	AA	AB	AC	AD	AE	AF	AG
1	Date Restoration Complete	Surface Water Contamination	Surface Water Contamination Indicators	Surface Water Remediated	Surface Water Remediation Method	Surface Water Remedition Completion Date	Groundwater Contamination	Groundwater Contamination Indicators	Groundwater Remediated	Groundwater Remediation Method	Groundwater Remediation Completion Date
2	*6/2/2022*	*Yes*	*Sheen*	*Yes*		*2/23/2022*	*No*		*N/A*		*2/22/2022*

AMERICAN OVERSIGHT

	AH	AI	AJ	AK	AL	AM
1	Community Impact	Community Impact Indicators	Total Cost of Complete P&A ($ USD)	Well Status	Witness Name & Certification	Witness Date
2	*No*		*$5,994*	*Plugged & Aban*	*John Smith, PE*	*3/13/2022*

AMERICAN OVERSIGHT

	A	B	C	D	E	F
1	US Well ID (12 Digit)/API (14 Digit)	Well ID Data Source	Well Name	Well Type	Producing Geologic Formation	Surface Managing Entity
2		US Well ID		Oil		Private
3		API		Gas		State
4		Other				Federal
5						Tribal
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AMERICAN OVERSIGHT

Field Options

	G	H	I	J	K	L	M	N
1	Surface Managing Entity Name	Subsurface Managing Entity	Subsurface Managing Entity Name	State	Tribe	County	Latitude	Longitude
2	BLM	Private	BLM	AL				
3	BIA	State	BIA	AK				
4	BOEM/BSEE	Federal	BOEM/BSEE	AZ				
5	NPS	Tribal	NPS	AR				
6	USFS		USFS	AS				
7	USFWS		USFWS	CA				
8	N/A		N/A	CO				
9				CT				
10				DE				
11				DC				
12				FL				
13				GA				
14				GU				
15				HI				
16				ID				
17				IL				
18				IN				
19				IA				
20				KS				
21				KY				
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35				NM				
36				NY				
37				NC				
38				ND				
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40				OH				
41				OK				
42				OR				
43				PA				
44				PR				
45				RI				
46				SC				
47				SD				
48				TN				
49				TX				

AMERICAN OVERSIGHT

	O	P	Q	R
1	Horizontal Datum	Location Accuracy	Pre-Plugging Methane Emissions (g/hr)	Post-Plugging Methane Emissions (grams/hr)
2	NAD83	Estimated		
3	NAD27	Measured		
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AMERICAN OVERSIGHT

	S	T	U	V
1	Methane Measurement Method	Habitat Restored (acres)	Restoration Endpoint	Date Restoration Complete (Performance Standards are met)
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AMERICAN OVERSIGHT

	W	X	Y	Z
1	Surface Water Contamination	Surface Water Contamination Indicators	Surface Water Remediated	Surface Water Remediation Method
2	Yes		Yes	
3	No		No	
4	N/A		N/A	
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AMERICAN OVERSIGHT

	AA	AB	AC	AD
1	Surface Water Remedition Completion Date	Groundwater Contamination	Groundwater Contamination Indicators	Groundwater Remediated
2		Yes		Yes
3		No		No
4		N/A		N/A
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AMERICAN OVERSIGHT

	AE	AF	AG	AH
1	Groundwater Remediation Method	Groundwater Remediation Completion Date	Community Impact	Community Impact Indicators
2			Yes	
3			No	
4			N/A	
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AMERICAN OVERSIGHT

	AI	AJ	AK	AL
1	Total Cost of Complete P&A ($ USD)	Well Status	Witness Name & Certification	Witness Date
2		Unplugged		
3		Plugged		
4		Plugged & Vented		
5		Plugged & Abandoned		
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AMERICAN OVERSIGHT

Field Options

	G	H	I	J	K	L	M	N
50				TT				
51				UT				
52				VT				
53				VA				
54				VI				
55				WA				
56				WV				
57				WI				
58				WY				
59				N/A				

AMERICAN OVERSIGHT

	A	B	C
1	Jobs Created	Jobs Saved	At-Risk Wells
2	6500	1000	12090

AMERICAN OVERSIGHT

UNITED STATES DEPARTMENT OF THE INTERIOR

BIPARTISAN INFRASTRUCTURE LAW SEC. 40601 ORPHANED WELL PROGRAM

FY 2022 STATE INITIAL GRANT GUIDANCE

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. Sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. Describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on State and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices will be further refined with input from the States and Tribes and may form the basis for future

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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requirements in the subsequent orphaned well grants, so States expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to activities listed under Sec. 40601(c)(2)(A), i through viii, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Community" – either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as migrant workers or Native Americans), where either type of group experiences common conditions.[4]

"Date of receipt of funds," as identified in Sec. 40601(c)(3)(A)(i)(II)(cc), is the effective date of the grant and the start of its period of performance, as determined by the DOI Agreements Officer and the receiving State. For the large-scale Initial grant, the effective date begins the 90-day period within which the State must "use" no less than 90% of funds as certified in the grant application. To "use … funding" under this section is to obligate funding by definitely committing it to a new or existing contract or issuing a new grant.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex
[4] Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021

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"Disadvantaged Community" – a community may be considered disadvantaged based on a combination of the variables below or based on its inclusion in the Climate and Economic Justice Screening Tool.[5]

- Low income, high and/or persistent poverty
- High unemployment and underemployment
- Racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities
- Linguistic isolation
- High housing cost burden and substandard housing
- Distressed neighborhoods
- High transportation cost burden and/or low transportation access
- Disproportionate environmental stressor burden and high cumulative impacts
- Limited water and sanitation access and affordability
- Disproportionate impacts from climate change
- High energy cost burden and low energy access
- Jobs lost through the energy transition
- Access to healthcare
- Geographic areas within Tribal jurisdictions

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's onshore plugging and reclamation standards and DOI approval prior to the start of operations.

[5]Definition from OMB and CEQ Interim Implementation Guidance for the Justice40 Initiative (M-21-28) dated July 20, 2021. See Climate and Economic Justice Screening Tool at: Explore the tool - Climate & Economic Justice Screening Tool (geoplatform.gov)

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[6]

"Orphaned Well" – The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, the operator of which is unable to plug the well and to remediate and reclaim the well site, or that is in the National Petroleum Reserve - Alaska. With respect to State or private land, the term:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Pre-Award Costs" – Per 2 CFR 200.458, Pre-Award Costs are those incurred after the award date and before the effective date of the Federal award and only with the written approval of the Federal awarding agency (DOI). DOI will evaluate pre-award costs on a case-by-case basis.

"Tribal and Indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" – For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[7]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:
   i. plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
   ii. identify and characterize undocumented orphaned wells on State and private land;
   iii. rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;

[6] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[7] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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iv. make information regarding the use of funds received available on a public website;
v. measure and track -
I. emissions of methane and other gases associated with orphaned wells; and
II. contamination of groundwater or surface water associated with orphaned wells;
vi. remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
vii. remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
viii. identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities; and
ix. administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe, but may be used for Federal wells where the surface is owned by the State or by a private party and appropriate agreements are in place with the Federal mineral manager, which has determined the well to be orphaned.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a

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year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the State to properly carry out and oversee the activities to be funded. All Required Elements are Standard Forms or approved forms under OMB Control No. 1093-0012.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete. Digital signatures are acceptable:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
If the grant applicant does not engage in lobbying activities, it is sufficient to mark the SF-LLL form "N/A" for Not Applicable.
(d) OMB Form 4040-0010 Key Contacts Form

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ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of a successful orphaned well program. Although not required in relation to Initial grant funding, many will be further refined in coordination with the States and may be required for subsequent grants. States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and Indigenous communities;

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(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;
(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the State has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and

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(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications* (digital signatures are acceptable)

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see Attachment A) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see Attachment B) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. <u>Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution</u>

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or

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estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also encouraged to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to use the protocol in *Assessing Methane Emissions from Orphaned Wells to meet Reporting Requirements of the 2021 Infrastructure Investment and Jobs Act (BIL): Federal Program Guidelines*, available at the OEPC Legacy Pollution Program website,[8] to measure and report methane emissions from orphaned wells. States may also use a third-party methodology, such as the American Carbon Registry's draft methodology.[9] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum,

[8] https://www.doi.gov/priorities/investing-americas-infrastructure/legacy-pollution
[9] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical – preferably before State grant applications are submitted – States should provide a primary contact for coordination between Tribal and Federal land management agencies to **orphanedwells@ios.doi.gov**. DOI will provide a map of Federal wells approved for plugging to the State contacts and IOGCC. This map, and subsequent updates, will be posted publicly as soon as reasonably possible. All questions regarding coordination with Federal or Tribal agencies should also be sent to **orphanedwells@ios.doi.gov**.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land, unless all such data collection is otherwise captured in the terms of a lawful agreement between the State and the Federal Land Manager (e.g., cooperative agreement). Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of

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period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the corresponding quarterly Financial and Performance Report described in VII.C, a separate quarterly Financial and Performance Report need not be submitted for that period.

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

   (a) Well location information (e.g., latitude/longitude);
   (b) Well type (e.g. orphaned production or disposal well);
   (c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
   (d) The population living within a half mile radius of each well being plugged;
   (e) Pre-plugging methane emissions (if available);
   (f) Post-plugging methane emissions;
   (g) Surface water contamination identified;
   (h) Surface water contamination remediated;
   (i) Groundwater contamination identified;
   (j) Groundwater contamination remediated;
   (k) Acreage impacted by well and infrastructure (site footprint);
   (l) Revegetation performance standard monitoring start date;
   (m) Revegetation performance standard attainment date (project complete);
   (n) Actual total cost per well of plugging and surface reclamation; and
   (o) If the project is located in a community of color, low-income community, or Tribal or Indigenous community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part

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of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template available at the OEPC Legacy Pollution Program website. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior may post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

H. Additional clarification on reporting requirements and grant terminology is provided in Attachment C.

VIII. DAVIS-BACON ACT REQUIREMENTS

All laborers and mechanics employed by the applicant, subrecipients, contractors or subcontractors in the performance of construction, alteration, or repair work on an award or project in excess of $2,000 funded directly by or assisted in whole or in part by funds made available under Initial grants shall be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code commonly referred to as the "Davis-Bacon Act" (DBA).

Applicants shall provide written assurance acknowledging the DBA requirements for the award or project and confirming that all laborers and mechanics performing construction, alteration, or repair work on projects in excess of $2,000 funded directly by or assisted in whole or in part by and through funding under the award are paid or will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 of Title 40, United States Code (Davis-Bacon Act).

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Recipients of funding will also be required to undergo DBA compliance training and to maintain competency in DBA compliance. The U.S. Department of Labor offers free Prevailing Wage Seminars several times a year that meet this requirement, at https://www.dol.gov/agencies/whd/government-contracts/construction/seminars/events.

For additional guidance on how to comply with DBA provisions and clauses, see https:/www.dol.gov/agencies/whd/government-contracts/construction and https:/www.dol.gov/agencies/whd/government-contracts/protections-for-workers-in-construction.

IX. ADDITIONAL TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: Standard Award Terms and Conditions.

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive. Waivers may be requested through the DOI Office of Grants Management.

C. Under 2 C.F.R. § 200.329, the Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in State possession and facilitate, to the extent allowable under State law, Federal awarding agency access to project sites.

D. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

E. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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Attachment A OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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Attachment B OMB Control No. 1093-0012

State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Attachment C

Annex to the Initial State Grants Guidance

Overview: The $4.3B orphan well State grant program is historic, new, and critical to clean up legacy pollution. These sections provide instructions and awareness to States on standard grants management requirements that are part of applying for a Federal award.

1. **Unique Entity Identifier and System for Award Management (SAM)**
2. **Conflict of Interest Disclosure**
3. **Single Audit Reporting Statement**
4. **Certification Regarding Lobbying and Disclosure Requirements**
5. **Intergovernmental Review**
6. **Data Availability**
7. **Agency Review Process**
8. **Additional Reporting Requirements**
    a. **Significant Development Reports**
    b. **Conflict of Interest Disclosures**
    c. **Other Mandatory Disclosures**
    d. **Reporting Matters Related to Recipient Integrity and Performance**
9. **Payments**

1. Unique Entity Identifier and System for Award Management (SAM)

Before submitting an application, applicants must be registered in SAM.gov and have a Unique Entity Identifier (UEI) which replaces the Data Universal Numbering System (DUNS) number from Dun & Bradstreet in April 2022. Registration is through the SAM.gov website, which has user guides and other information to assist you with registration under the "Help" tab if you are not already registered. The Grants.gov "Register with SAM" page also provides detailed instructions, and applicants can contact the supporting Federal Service Desk for help as needed. A Federal award may not be made to an applicant that has not completed the SAM.gov registration. Federal award recipients must renew and validate their SAM registration at least once every 12 months to maintain an active SAM.gov registration with current information through the life of their Federal award(s).

Applicants that are registered with SAM just need to login to get their UEI, SAM generates it automatically.

2. Conflict of Interest Disclosure

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.112, applicants must state in their application if any actual or potential conflict-of-interest exists at the time of submission.

(a) *Applicability*.

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

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(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict-of-interest provisions in 2 CFR 200.318 apply.

(b) *Notification*.

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Grants Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(c) *Restrictions on lobbying*. Non-Federal entities are strictly prohibited from using funds under a grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR part 18 and 31 U.S.C. 1352.

(d) *Review procedures*. The Grants Officer will examine each conflict-of-interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(e) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.339, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR part 180).

3. Single Audit Reporting Statement

All U.S. States expending $750,000 USD or more in Federal award funds in the applicant's fiscal year must submit a Single Audit report for that year through the Federal Audit Clearinghouse's Internet Data Entry System. U.S. States must state if your organization was or was not required to submit a Single Audit report for the most recently closed fiscal year in your application. If your organization was required to submit a Single Audit report for the most recently closed fiscal year, provide the EIN (Tax ID) associated with that report and state if it is available through the Federal Audit Clearinghouse website.

4. Certification Regarding Lobbying and Disclosure Requirements

Applicants requesting more than $100,000 in Federal funding must certify to the statements in 43 CFR Part 18, Appendix A-Certification Regarding Lobbying. If this application requests more than $100,000 in Federal funds, the Authorized Official's signature on the appropriate SF-424, Application for Federal Assistance form also represents the entity's certification of the statements in 43 CFR Part 18, Appendix A.

Applicants and recipients must not use any federally appropriated funds (annually appropriated or continuing appropriations) or matching funds under a Federal award to pay any person for lobbying in connection with the award. Lobbying is influencing or attempting to influence an officer or employee of any U.S. agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the award. Applicants and recipients must complete and submit the SF-LLL, "Disclosure of Lobbying Activities" form if the Federal share of the proposal or award is more than $100,000 and the applicant or recipient has made or has agreed to make any payment using non- appropriated funds for lobbying in connection with the application or

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award. The SF-LLL form is available with this Funding Opportunity on Grants.gov. See 43 CFR, Subpart 18.100 for more information on when additional submission of this form is required.

5. Intergovernmental Review

An intergovernmental review may be required for submissions from a U.S. State. Prior to application submission, U.S. State applicants should visit the OMB Office of Federal Financial Management website and view the "State Point of Contact (SPOC) List" to determine whether their application is subject to the State intergovernmental review process under Executive Order (E.O.) 12372 "Intergovernmental Review of Federal Programs." https://www.whitehouse.gov/omb/office-federal-financial-management/

6. Data Availability

Per the Financial Assistance Interior Regulation (FAIR), 2 CFR §1402.315:

(a) All data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, valuation products or other scientific assessments in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual, resulting from a financial assistance agreement is available for use by the Department of the Interior, including being available in a manner that is sufficient for independent verification.

(b) The Federal Government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data, methodology, factual inputs, models, analyses, technical information, reports, conclusions, or other scientific assessments, for Federal purposes, including to allow for meaningful third-party evaluation.

7. Agency Review Process

The awarding agency conducts a review of the SAM.gov Exclusions database for all applicant entities and their key project personnel prior to award. The awarding agency cannot award funds to entities or their key project personnel identified in the SAM.gov Exclusions database as ineligible, prohibited/restricted or otherwise excluded from receiving Federal contracts, certain subcontracts, and certain Federal assistance and benefits, as their ineligibility condition applies to this Federal program.

Prior to award, the awarding agency will evaluate the risk posed by applicants as required in 2 CFR 200.205. The awarding agency documents applicant risk evaluations using DOI's "Financial Assistance Recipient Risk Assessment" form. Prior to approving awards for Federal funding in excess of the simplified acquisition threshold (currently $250,000), the awarding agency is required to review and consider any information about or from the applicant found in the Federal Awardee Performance and Integrity Information System. The awarding agency will consider this information when completing the risk review. The awarding agency uses the results of the risk evaluation to establish monitoring plans, recipient reporting frequency requirements, and to determine if one or more of the specific award conditions in 2 CFR 200.207 should be applied to the award.

8. Additional Reporting Requirements

Significant Development Reports Events may occur between the scheduled performance reporting dates which have significant impact upon the supported activity. In such cases, recipients are required to notify

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the awarding agency in writing as soon as the recipient becomes aware of any problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation. The recipient should also notify the awarding agency in writing of any favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

Conflict-of-Interest Disclosures Recipients must notify the program immediately in writing of any conflict of interest that arises during the life of their Federal award, including those reported to them by any subrecipient under the award. Recipients must notify the program in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee in the Federal funding program or who otherwise may have been involved in the review and selection of the award. The term employee means any individual engaged in the performance of work pursuant to the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. See the U.S. Office of Government Ethics website for more information on these restrictions. The awarding agency will examine each conflict-of-interest disclosure based on its particular facts and the nature of the project and will determine if a significant potential conflict exists. If it does, the awarding agency will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the awarding agency may result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including termination of the award.

Other Mandatory Disclosures Applicants must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that receive a Federal award including the terms and conditions outlined in 2 CFR 200, Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.339 Remedies for Noncompliance, including suspension or debarment.

Reporting Matters Related to Recipient Integrity and Performance If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings in accordance with Appendix XII to 2 CFR 200.

9. Payments

Domestic recipients are required to register in and receive payment through the U.S. Treasury's Automated Standard Application for Payments (ASAP), unless approved for a waiver by the awarding agency program. The recipient will be notified of the ASAP enrollment process, or if already enrolled, the process to link their ASAP account to the Agency.

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Attachment D

Paperwork Reduction Act Statement

In accordance with the Paperwork Reduction Act (44 U.S.C. 3501, et seq.), the U.S. Department of the Interior collects information necessary for implementing a grant program for applicable government entities to plug, remediate, and reclaim orphaned wells on lands covered by the legislation. The associated investments, as part of the new grant programs, will rebuild America's critical infrastructure, tackle the climate crisis, advance environmental justice, and drive the creation of good-paying union jobs., and to respond to requests made under the Freedom of Information Act and the Privacy Act of 1974. Information requested in this form is required to obtain or retain a benefit. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. OMB has approved this collection of information and assigned Control No. 1093-0012.

Estimated Burden Statement

We estimate public reporting for this collection of information to average 44 hours, including time for reviewing instructions, gathering and maintaining data and completing and reviewing the form. Direct comments regarding the burden estimate or any other aspect of the form to the Department Information Clearance Officer, U.S. Department of the Interior, 1849 C Street, Washington, DC 20240, or via email at DOI-PRA@doi.gov. Please do not send your completed grant package to this address.

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FY 2022 State Initial Grant Guidance

I. INTRODUCTION

President Biden signed the Bipartisan Infrastructure Law (BIL; Public Law 117-58) on November 15, 2021, making a once-in-a-generation investment in the Nation's infrastructure and economic competitiveness. This landmark investment will rebuild America's critical infrastructure, tackle the climate crisis, address legacy polluted sites, advance environmental justice, and drive the creation of good-paying union jobs. By addressing long overdue infrastructure and environmental improvements and strengthening our resilience to the changing climate, this investment in our communities across the country will grow the economy sustainably and equitably for decades to come.

Section 40601 of the BIL creates an orphaned well site plugging, remediation, and reclamation program within the Department of the Interior (DOI) to address orphaned wells and well sites on Federal lands.[1] Subsection (d) creates a grant program for Tribes, and subsection (c) creates three types of grants for states:

1. Initial grants (Section 40601(c)(3))
2. Formula grants (Section 40601(c)(4))
3. Performance grants (Section 40601(c)(5))

This document:

1. sets forth the application process for states and provides requirements for carrying out activities under the Initial grants authorized by Sec. 40601(c)(3) of the BIL; and
2. describes what the Department of the Interior considers to be the best practices for establishing, conducting, and reporting on the activities of a program to plug, remediate, and reclaim orphaned wells on state and private lands.

The document indicates what information is **required** in applications for an Initial grant and for expenditure of the grant funding. It also includes a number **strongly recommended** best practices that can help maximize the benefits and transparency of activities carried out with Initial grant funding. Many of these best practices may form the basis for future requirements in the subsequent orphaned well grants, so states expecting to apply for subsequent rounds of grants are encouraged to ensure their programs apply these best practices as early as possible in order to promote consistent standards for well plugging and reclamation activities, and that benefits from the program can be properly tracked.

[1] Section 40601 amends Section 349 of the Energy Policy Act of 2005, but for simplicity all references to the amended Section 349 will be written as components of Section 40601 of the BIL in this document.

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II. DEFINITIONS

"Administrative costs" identified in Sec. 40601(c)(2)(B)(i), limited to not more than 10 percent of the funds received,[2] are those costs that cannot be directly attributed to well plugging and site reclamation projects, but instead to general grants management or program administration. Administrative costs can be expended for personnel or non-personnel costs, and can be direct or indirect, but should represent the costs to the State for managing the overall grant-funded work rather than preparation for and execution of individual projects.

"Communities of color" are those communities with a higher than national average percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial. A block group is an area defined by the Census Bureau that usually has in the range of 600-3,000 people living in it.[3]

"Date of receipt of funds" - as identified in Sec. 40601(c)(3)(A)(i)(II)(cc) this is the date on which the awarded grant is available for obligation in the receiving State's financial system of record. For purposes of this guidance, the date of receipt shall refer to the date when a recipient organization initiates its first drawdown of funds from the Automated Standard Application for Payment (ASAP).

"Federal land" is defined in Sec. 40601(a)(1) as land administered by a land management agency within the Department of Agriculture or the Department of the Interior.

"Federal wells" – Orphaned wells and well sites on Federal land are considered "Federal wells" and are eligible for funding under the Sec. 40601(b) Federal Program. Orphaned wells–and well sites associated with such wells–that were drilled subject to a federal permit to drill may be considered Federal wells eligible for funding under the Sec. 40601(b) Federal Program, regardless of surface ownership. As the funding under the Federal Program is not expected to be sufficient to remediate all eligible Federal wells, a State may use grant funds received under Sec. 40601 to plug and remediate Federal wells located on State or private land and may include those wells in its inventory of documented orphaned wells on State or private land. Any plugging and reclamation activities on such split-estate orphaned wells would be subject to the Federal government's on-shore plugging and reclamation standards.

[2] Except as provided by Section 40601(c)(2)(B)(ii), which allows larger amounts to be used for administrative costs under the small-scale Initial grants described further in Section IV of this document.
[3] This definition is adopted from USEPA's EJSCREEN definitions at: https://www.epa.gov/ejscreen/overview-demographic-indicators-ejscreen#demoindex

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"Low-income communities" are those communities that in the last 12 months had a median household income less than twice the poverty level.[4]

"Orphaned Well" - The term "orphaned well" with respect to Federal or Tribal land, means a well that is not used for an authorized purpose, such as production, injection, or monitoring, and for which no operator can be located, or the operator of which is unable to plug the well and to remediate and reclaim the well site. With respect to State or private land, the term ~~also~~:

(1) has the meaning given the term by the applicable State; or
(2) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

"Tribal and indigenous communities" are communities whose members make up a Federally recognized Indian Tribe, a State-recognized Indian Tribe, an Alaska Native community or organization, a Native Hawaiian organization, or any other community of indigenous people located in a State, including indigenous persons residing in urban communities.

"Unobligated amounts" - For purposes of determining the deadline for expenditure under Sec. 40601(c)(3)(C), "unobligated amounts" covers any funding that is not subject to a definite commitment that creates a legal liability of the State for an immediate or future payment for goods or services ordered or received, including by contract or sub-contract award.[5]

III. PERMISSIBLE USES OF INTIAL GRANT FUNDS

A. As provided under Section 40601(c)(2), a State may use funding from Initial grants to:

- plug, remediate, and reclaim orphaned wells located on State-owned or privately-owned land;
- identify and characterize undocumented orphaned wells on State and private land;
- rank orphaned wells based on factors including public health and safety, potential environmental harm, and other land use priorities;
- make information regarding the use of funds received available on a public website;
- measure and track emissions of methane and other gases associated with orphaned wells;

[4] This definition is similar to USEPA's EJSCREEN definition at https://www.epa.gov/ejscreen/ejscreen-map-descriptions#category-demographics
[5] See Government Accountability Office definitions at: https://www.gao.gov/assets/gao-05-734sp.pdf

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- measure and track contamination of groundwater or surface water associated with orphaned wells;
- remediate soil and restore native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure;
- remediate land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;
- identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities; and
- administer the program of work identified in its grant agreement.

B. Initial grants are available for such activities where the surface is owned by the State or by a private party, including, potentially, individually owned Indian properties that are held in trust by the Secretary of the Interior but deemed by the State to be 'orphaned wells' on 'private land,' for purposes of compliance with this section only. Funds may not be used for activities where the surface is owned by the United States or by an Indian Tribe.

C. Section 40601(c)(3)(A) allows States to request an Initial grant of up to $25 million under clause (i)–referred to as large-scale Initial grants–or up to $5 million under clause (ii)–referred to as small-scale Initial grants. States may receive one Initial grant under 40601(c)(3): either a small-scale grant or a large-scale project grant, but not both.

D. Section 40601(c)(A)(i)(II)(cc) provides that a State that applies for a large-scale Initial grant must include a certification that the State will use not less than 90% of its requested funding to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of the receipt of the funds.

E. Section 40601(c)(3)(C) - Expenditure and Reimbursement: A State that receives funds under the Initial grant authority shall reimburse the Secretary in an amount equal to the amount of funds that remain unobligated on the date that is one year after the date of receipt of the funds. In other words, all funds must be obligated within a year of date of receiving the funds otherwise unobligated funds shall be reimbursed to the Secretary.

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IV. INSTRUCTIONS FOR INITIAL GRANT APPLICATIONS

A. *Deadline*

i. Small-Scale Grants (up to $5 million): States may apply for an Initial grant of up to $5 million within a time frame sufficient to ensure that periods of performance and final obligations are complete prior to September 30, 2030.

ii. Large-Scale Grants (up to $25 million): The deadline for submitting applications for Initial grants of up to $25.0 million is **May 13, 2022**, 11:59 pm EDT.

Applications must be emailed to **orphanedwells@ios.doi.gov**. An email acknowledging receipt will be provided by DOI to the sending State within one business day of receipt.

B. *Required Elements*

To be complete, the application should include sufficient details as described below to provide assurances regarding the ability of the state to properly carry out and oversee the activities to be funded.

i. Federal Forms: The following Federal forms, all available at Grants.gov, must be submitted for an Initial grant request for funding (the application) to be complete:

(a) SF-424v4 Application for Federal Assistance
(b) SF-424A Budget Information for Non-Construction Programs
An SF-424A is a standard form that provides an estimate of the work's major cost centers (e.g., State employee labor, training, equipment, contracting and other operational costs), where the sum total of the budget justification equals the overall Initial grant request.
(c) SF-LLL Disclosure of Lobbying Activities
(d) OMB Form 4040-0010 Key Contacts Form

ii. Detailed Budget Proposal/Justification: This detailed information supports and identifies the estimated costs provided in the SF-424A and should include an itemized budget breakdown with unit costs for the period of the Initial grant funding and the basis for estimating the costs of personnel salaries, fringe benefits, project staff travel, materials and supplies, equipment, and consultants and contracts. This document should also include narrative descriptions of the items included in the project budget.

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iii. Project Abstract Summary (OMB Form Number 4040-0019): A project abstract of not more than one page will include the project purpose, activities to be performed, expected deliverables or outcomes, intended beneficiaries, and subrecipient activities (if known).

C. *Recommended Elements*

The following list includes the features the Department of the Interior has determined are important components of successful orphaned well program. Although not required in relation to Initial grant funding, many are expected to be required for subsequent grants, and States are encouraged to incorporate these features into projects funded with Initial grants.

For those parts that are applicable, the State should include the following information as a narrative attachment to the required elements listed above:

(a) The State's process for determining that a well has been orphaned, including what efforts will be made to redeem financial assurances or otherwise recoup remediation costs from any parties responsible under State law;
(b) A description of the State's plugging standards, including the witnessing requirements (qualifications of witness, documentation);
(c) Details of the State's prioritization process for evaluating and ranking orphan wells and associated surface reclamation, including criteria, weighting, and how such prioritization will address resource and financial risk, public health and safety, potential environmental harm (including methane emissions where applicable), and other land use priorities;
(d) If no prioritization process currently exists, the State should describe its plans to develop and implement a prioritization process;
(e) Details of how the State will identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on disadvantaged communities, including communities of color, low-income communities, and Tribal and indigenous communities;
(f) The methodology to be used by the State to measure and track methane and other gases associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such emissions;
(g) The methodology to be used by the State to measure and track contamination of groundwater and surface water associated with orphaned wells, including how the State will confirm the effectiveness of plugging activities in reducing or eliminating such contamination;

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(h) The methodology to be used to decommission or remove associated pipelines, facilities, and infrastructure and to remediate soil and restore habitat that has been degraded due to the presence of orphaned wells and associated infrastructure;
(i) Methods the State will use to solicit recommendations from local officials and the public regarding the prioritization of well plugging and site remediation activities, and any other processes the State will use to solicit feedback on the program from local officials and the public;
(j) Latitude/Longitude and all other data elements and associated units of measure as indicated in the Orphaned Well Data Reporting Template that accompanies this guidance;
(k) How the State will use funding to locate currently undocumented orphaned wells;
(l) Plans the State has to engage third-parties in partnerships around well plugging and site remediation, or any existing similar partnerships the State currently belongs to;
(m) Training programs, registered apprenticeships, and local and economic hire agreements for workers the State intends to conduct or fund in well plugging or site remediation;
(n) Plans the State has to support opportunities for all workers, including workers underrepresented in well plugging or site remediation, to be trained and placed in good-paying jobs directly related to the project;
(o) Plans the state has to incorporate equity for underserved communities into their planning, including supporting the expansion of high-quality, good paying jobs through workforce development programs and incorporating workforce strategy into project development;
(p) Procedures the State will use to coordinate with Federal or Tribal agencies to determine whether efficiencies may exist by combining field survey, plugging, or surface remediation work across private, State, Federal, and Tribal land;
(q) The State's authorities to enter private property, or a State's procedures to obtain landowner consent to enter private property, in the event that any wells to be plugged will be accessed from privately owned surface;
(r) A work schedule covering the period of performance of the Initial grant; and
(s) If applicable, a federally approved Indirect Cost Rate Agreement or statement regarding State's intention to negotiate or utilize the de minimis rate.

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D. *Restrictions on funding use (90% must be for contracts & grants)*

States may not use more than 10 percent of the funds received as authorized under Sec. 40601(3)(c)(3)(A)(i) for administrative costs associated with activities listed in Section III. This limitation does not apply to an Initial grant of up to $5.0 million received as authorized under Sec. 40601(3)(c)(3)(A)(ii). However, States receiving the smaller Initial grants must nonetheless comply with 2 CFR § 200.414, which requires States to adhere to federally-approved indirect cost rate agreements.

E. *Certifications*

i. Small-Scale Grants: For small-scale grant applications up to $5 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State has a plugging, remediation, and reclamation program in effect for orphaned wells; or
   (b) The State has the capacity to initiate such a program; or
   (c) The funds provided under this paragraph will be used to carry out any administrative action necessary to develop an application for a formula grant or performance grant.

ii. Large-Scale Grants: For large-scale grant applications up to $25 million, a certification (see attached format) must be submitted to the Department that:
   (a) The State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
   (b) There are 1 or more documented orphaned wells located in the State; and
   (c) The State will use not less than 90 percent of the funding requested to issue new contracts, amend existing contracts, or issue grants for plugging of orphan wells, and reclamation of associated surface conditions by not later than 90 days after the date of receipt of the funds.

V. RECOMMENDED STANDARDS FOR MEASUREMENT, PLUGGING, AND REMEDIATION

A. Pre and Post-Plugging Measurement or Estimation of Air and Water Pollution

i. As a best practice, States are encouraged to conduct an inspection of each orphaned well site being considered under this grant to measure or estimate current contamination of surface water and groundwater and to measure or estimate current emissions of methane, hydrogen sulfide, and other gas emissions. States are also expected to conduct post-plugging inspections and measurements to verify the lack of gaseous emissions or water contamination from plugged wells and the achievement of vegetation performance standards appropriate to the

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site's future land uses. Such post-plugging inspection and measurement will be documented to create a verifiable record of activities performed under the grant.

ii. States are encouraged to follow a third-party methodology for measurement and verification, such as the American Carbon Registry's methodology (once finalized).[6] States should report in their Project Narrative the methodology or methodologies they will use or require their contractors to use.

iii. Pre- and post-plugging measurements or estimates, by well, of water contamination, gaseous emissions (particularly methane), and acres restored should be included in the Final Performance Report described in Section VII.C. below.

B. Well Plugging and Site Remediation Standards

i. States with established and documented well plugging standards and regulations will require their contractors to meet those requirements. For a State that does not have established well plugging standards, it is strongly recommended that the work reflect, at a minimum: the plugging standards in the Bureau of Land Management's Onshore Oil and Gas Order No. 2 Section III.G for plugging wells (*https://www.blm.gov/sites/blm.gov/files/energy_onshoreorder2.pdf*); or, for offshore wells, the provisions of 30 CFR Part 250.

ii. States will adhere to any well plug witnessing and documentation requirements pursuant to State law.

iii. For States with established well abandonment standards (inclusive of those actions necessary to complete surface reclamation and revegetation), all well closures shall meet those requirements. If a State does not have well abandonment standards, then for a well site to be considered plugged and fully abandoned, such that it can be reported as a completed unit, the work must reflect, at a minimum, the Bureau of Land Management's Reclamation and Abandonment Standards. For additional details, see: *https://www.blm.gov/sites/blm.gov/files/Chapter%206%20-%20Reclamation%20and%20Abandonment.pdf*

VI. FEDERAL AND TRIBAL COORDINATION

Efficiency and cost-effectiveness in well plugging and site remediation will be maximized by ensuring proper coordination in these activities between States, Tribes, and the Federal government. As early as practical–preferably before State grant applications

[6] https://americancarbonregistry.org/carbon-accounting/standards-methodologies/plugging-abandoned-orphaned-oil-and-gas-wells

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are submitted–States should contact the relevant offices of Tribal or Federal land management agencies to ensure the maximum level of coordination between States, Federal land management agencies, and Tribes. States may reach out to the IOGCC or the DOI/OEPC for a list of appropriate contacts.

When undertaking work on Federal land under a cost-sharing, Good Neighbor, or other arrangement with the Federal government, States must collect the data required to be reported under the BIL for wells plugged and sites remediated on Federal land. Early coordination with Federal agencies is encouraged to ensure that States are collecting the proper data in a format that can most easily be transferred to the Federal government.

States are also encouraged to consult with Federal agencies and Tribal representatives to ensure appropriate and efficient collaboration on compliance issues (e.g., cultural resources, endangered species, sacred sites) and to minimize disruption of operations and land management activities, such as planning field activities to avoid special events that might be impacted by the work.

VII. REPORTING REQUIREMENTS

A. *Quarterly Reports:* Consistent with 2 C.F.R. § 200.328, States must submit quarterly financial and performance reports to the DOI within 30 days of the close of each Federal fiscal quarter. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

B. *Personal Prop*erty report: States will be required to submit an annual Tangible Personal Property Report (SF-428) if grant funds are used to purchase equipment.

C. Final Financial and Performance Reports: Consistent with 2 C.F.R. § 200.329, States must submit a final financial and performance reports to the DOI within 120 days of period of performance end date. Financial reporting will use SF-425 or other forms if specified by the Office of Management and Budget.

D. 15-month report: States receiving either type of Initial grant must submit a report, no later than 15 months after the date on which the State receives the funds, describing the means by which the State used the funds in accordance with its certification. If the 15-month report includes all of the detail that would have been provided in the Final Financial and Performance Report described in VII.C, a separate Final Financial and Performance Report need not be submitted..

E. Data Collection and Reporting

1. In order to simplify and standardize reporting and tracking requirements and ensure that the Federal resources utilized are well-spent and achieving

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the statutory objectives, States are encouraged to track the following data for all actions taken using orphaned well grant funding. Such data elements will help inform, and be incorporated into, the processes being developed for the forthcoming Formula grants and Performance grants listed in Section I above. As appropriate, data tracking may be accomplished through existing systems such as the Groundwater Protection Council's Risk-Based Data Management Solutions (RBDMS):

(a) Well location information (e.g., latitude/longitude);
(b) Well type (e.g. orphaned production or disposal well);
(c) Bureau of Labor Statistics NAICS codes for each of the employees working on each well site, along with the hours each employee spent on each site;
(d) The population living within a half mile radius of each well being plugged;
(e) Pre-plugging methane emissions (if available);
(f) Post-plugging methane emissions;
(g) Surface water contamination identified;
(h) Surface water contamination remediated;
(i) Groundwater contamination identified;
(j) Groundwater contamination remediated;
(k) Acreage impacted by well and infrastructure (site footprint);
(l) Revegetation performance standard monitoring start date;
(m) Revegetation performance standard attainment date (project complete);
(n) Actual total cost per well of plugging and surface reclamation; and
(o) If the project is located in a low-income, disadvantaged, and/or minority community.

2. This list highlights important parameters that DOI will report to Congress annually and is a subset of the larger data set to be reported by the States as part of the quarterly performance reports (VII.A.) and 15-month report (V.A.iii.) and detailed in the Orphaned Well Data Reporting Template accompanying this guidance. States that intend to apply for a Formula grant (as per forthcoming Formula grant guidance) should note that information regarding the activities under such grants are required to be posted on a public website, and States are strongly encouraged to develop such a website to provide information to the public about the activities undertaken using Initial grant funding as well. Developing a website is an allowable use of Initial grant funds and ensuring that Initial grant activities are tracked in the same manner as Formula grant activities will allow for a better determination of the successes of the funding, help meet goals of transparency and accountability, and make it easier for the State to meet future reporting requirements.

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F. After providing the grantee an opportunity to redact personally identifiable or proprietary information, the Department of the Interior will post successful grant applications on a publicly available web site.

G. The Department of the Interior will publish a summary of performance accomplishments on a publicly available web site, following submission by the States of the report required in Section VII.C of this guidance.

VIII. DOI STANDARD AWARD TERMS AND CONDITIONS

A. DOI Standard Award Terms and Conditions will be included in all Initial grants, at the time of award. These standard terms and conditions can be found at: https://www.doi.gov/sites/doi.gov/files/uploads/doi-standard-award-terms-and-conditions-effective-december-2-2019-revised-june-19-2020.pdf

B. Award recipients will be expected to comply with Executive Order 14005, *Ensuring the Future Is Made in All of America by All of America's Workers,* which requires awardees and sub-awardees of Federal financial assistance awards to maximize the use of goods, products, materials, and services from sources that will help American businesses compete in strategic industries and help America's workers thrive.

C. The Federal awarding agency may make site visits as warranted to ensure appropriate fiscal accountability and oversight. States shall provide Federal awarding agency access to relevant documentation in state possession and facilitate, to the extent necessary and appropriate, Federal awarding agency access to project sites.

D. For project work that involves construction, alteration, or repair, award recipients, and any sub-awardees, will be expected to comply with the Davis-Bacon Act, which requires that not less than locally prevailing wages and fringe benefits be paid to employees.

E. States are encouraged to consider prioritizing projects, and/or the benefits that flow from those projects, in disadvantaged communities.

F. The DOI Freedom of Information Act Office provides guidelines to requestors of grant applications around what information may be redacted from applications. This information includes patent rights, confidential financial information, personally identifiable information (PII), and detailed budget, consultant, and business assets information. 2 CFR § 200.338 places limitations on public access to award-related documents.

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G. As required by Section 70914 of the Bipartisan Infrastructure Law on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to an approved waiver. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products.

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Small-Scale Initial Capacity Grant

Consistent with Section 40601(c)(3)(A)(ii)(III) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it:

- has in effect a plugging, remediation, and reclamation program for orphaned wells;

OR

- has the capacity to initiate such a program;

OR

- that the funds will be used to carry out any administrative actions necessary to develop an application for a formula grant or a performance grant under Section 40601(c)(4) or Section 40601(c)(5), respectively.

Certifying Official Name	Title
Certifying Official Signature	Date

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State Certification

Orphaned Well Site Plugging, Remediation, And Restoration

Large-Scale Initial Project Grant

Consistent with Section 40601(c)(3)(A)(i)(II)(aa) of the Infrastructure Investment and Jobs Act (aka Bipartisan Infrastructure Law), the State or Commonwealth of

_____ certifies that it is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission.

The State or Commonwealth also certifies that it has one (1) or more documented orphaned wells located within our State or Commonwealth.

And the State or Commonwealth certifies that it will use no less than 90 percent of the funds requested under this grant to issue new contracts, amend existing contracts, or issue grants for plugging, remediation and reclamation work on orphaned wells within our State or Commonwealth by not later than 90 days after the date of receipt of the funds.

_____ _____

Certifying Official Name Title

_____ _____

Certifying Official Signature Date

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Mission: The Interstate Oil and Gas Compact Commission is a multi-state government agency that champions the conservation and efficient recovery of domestic oil and natural gas resources while protecting health, safety, and the environment.

GOAL AREAS – CORE COMPETENCIES			
STEWARDSHIP Fostering wise stewardship of domestic oil and natural gas resources.	**ENVIRONMENTAL PROTECTION** Protecting the environment while supporting responsible production.	**ENGAGEMENT** Engaging with members, the public, and policymakers through training, knowledge sharing, listening, and advocacy.	**INNOVATION** Meeting challenges and seizing opportunities through innovation.
A. Recommend measures for **preventing physical waste** and promoting the maximum ultimate recovery of oil and gas. B. Foster understanding of the contribution of oil and gas resources to the **economy and national security**. C. Evaluate the contribution of oil and gas resources and technology as essential components of the energy mix in a **carbon neutral future**. D.	A. Assist states to identify, evaluate, and implement processes for **continuous improvement** of programs and services that protect the environment. B. Coordinate nationwide efforts to **mitigate environmental risks**. C. Support the **lead role of the states** in ensuring the environmentally responsible development of oil and gas resources. D.	A. Provide **opportunities for sharing** information, viewpoints, and best practices. B. **Communicate with the public** about the activities of the IOGCC and its member states. C. Convey to Congress and appropriate federal agencies the policies and positions adopted by IOGCC through the **resolutions** process. D. Support **adequate funding** of state programs and services. E.	A. Drive the future of oil and gas by being a leader and convener seeking **innovative solutions**. B. Promote **research and development** of technologies for oil and gas recovery and environmental protection. C. Identify and address **emerging issues**. D.

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Summary of State Regulations for TENORM in Oil and Gas

Please provide current links to relevant information (e.g., rules, guidelines, and associated forms). If your state has more than one agency, please have all of the agencies complete the questionnaire.

Regulatory agency(s) and jurisdiction(s):
[Name of agency]
[Contact information]

Relevant statutes/regulations:

Licensing (generators or commercial activities):

Remediation of facilities (land and equipment):

Disposal of NORM (e.g., downhole, injection, landfill):

Monitoring of NORM in drilling, production, processing, transportation, and storage:

Release, sale or recycle of contaminated land and equipment (owned or leased):

Training requirements for operators, surveyors, etc.:

Recent NORM litigation:

What NORM procedures does your state follow in plugging orphan wells and remediating well sites:

Additional information:

Respondent:

AMERICAN OVERSIGHT

Summary of State Regulations for TENORM in Oil and Gas

Please provide current links to relevant information (e.g., rules, guidelines, and associated forms). If your state has more than one agency, please have all of the agencies complete the questionnaire.

Regulatory agency(s) and jurisdiction(s):

Energy, Minerals & Natural Resources Department, Oil Conservation Division
1220 South St. Francis Drive
Santa Fe, New Mexico 87505
505-476-3441

New Mexico Environment Department, Radiation Control Bureau
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505
505-476-8600

Relevant statutes/regulations:

19.15.35.9 NMAC through 19.15.35.14 NMAC; Waste Disposal
https://www.srca.nm.gov/wp-content/uploads/attachments/19.015.0035.pdf

20.3.14 NMAC; Naturally Occurring Radioactive Materials in the Oil and Gas Industry
https://www.srca.nm.gov/wp-content/uploads/attachments/20.003.0014.pdf

Licensing (generators or commercial activities):

Disposal of regulated NORM on or near the surface of the ground is done pursuant to a general license issued by the New Mexico Environment Department. Before a commercial or centralized facility may accept regulated NORM for treatment and/or disposal, the operator of the facility must obtain both a specific license issued by the New Mexico Environment Department and a surface waste management facility permit from the Oil Conservation Division.

Remediation of facilities (land and equipment):

Soil - <30 picocuries per gram of Radium 226 and <150 picocuries per gram for all other radionuclides

Equipment - <50 microroentgens per hour

Disposal of NORM (e.g., downhole, injection, landfill):

Downhole – Allowed in a plugged and abandoned well with Oil Conservation Division approval at a depth of at least 100 feet below the lower most known underground source of drinking water. There must be evidence that there is cement across that drinking water zone. A cement plug dyed with red iron oxide must be placed directly above the NORM and at the surface.

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Injection – For injection into a Underground Injection Control (UIC) Class I or II disposal well, only NORM from the operator's operations can be injected with approval from the Oil Conservation Division and into a zone at least 100 feet below the lower most known underground source of drinking water. Each time NORM is injected, the Oil Conservation Division must be notified. For injection into a UIC Class II enhanced recovery well, injection can occur only after notice and a hearing wherein the applicant must demonstrate that the injection will not reduce the ultimate recovery of hydrocarbons and will not cause an increase in the level of NORM from a producing well located either within or offsetting the project area.

Landfill – There currently are no landfills in New Mexico with the proper license or permit for the acceptance of regulated NORM.

Non-retrieved flowlines and pipelines – Allowed with approval from the Oil Conservation Division and an explanation as to why it is more beneficial to leave the pipeline in place than retrieve it. Such approval will be conditioned upon the flushing of hydrocarbons and produced water from the pipe, proof of notice to the surface owner(s), and all accessible points being permanently capped. No additional NORM may be placed into the pipe other than that which accumulated during normal operations.

Monitoring of NORM in drilling, production, processing, transportation, and storage:

Persons subject to a general license must undertake radiation surveys of equipment and facilities in their control or possession and maintain that information on file. Surveys must be conducted prior to working on facilities or equipment where a potential release of NORM could occur or where workers could be exposed, prior to any transfer of equipment or salvage, prior to equipment removal from any facility, where pipe has been cleaned, or at facilities where materials are known to have been spread, spilled, or stockpiled. These surveys must be conducted using proper equipment and by knowledgeable personnel.

Release, sale or recycle of contaminated land and equipment (owned or leased):

No facility can be transferred where the concentration of Radium 226 in soil exceeds 30 picocuries per gram above background. The landowner must be notified prior to mixing of soils.

Facilities and equipment containing regulated NORM cannot be released for unrestricted use but they can be transferred provided the facilities or equipment are to be used for the same or similar purpose. Equipment containing regulated NORM may be released for maintenance or overhaul provided the recipient is specifically licensed to perform such activity.

Training requirements for operators, surveyors, etc.:

There are currently no specific NORM training requirements for operators or surveyors.

Recent NORM litigation:

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There has been no recent litigation in New Mexico concerning NORM in the oil and gas industry.

What NORM procedures does your state follow in plugging orphan wells and remediating well sites:

The Oil Conservation Division adheres to our NORM-related regulations when plugging orphan wells and remediating orphan well sites. All materials removed from wells (sucker rods, tubing, etc.) and surface infrastructure (tanks, heater treaters, separators, etc.) are surveyed for the presence of regulated NORM before disposal or salvage.

Additional information:

None

Respondent:

Jim Griswold
Oil Conservation Division
5200 Oakland Ave. NE
Albuquerque, New Mexico 87113
505-660-1067
jim.griswold@state.nm.us

AMERICAN OVERSIGHT



REALITY CHECK TAMMI FISHER

A STATESMAN WORTH HONORING

MY UNCLE TOMMY DIED THIS WEEK. HE and I weren't close, but we had mutual respect and admiration for one another. We were unicorns in our family, the two lone Republicans descended from staunch Democrats. Uncle Tom was a quiet guy who worked tirelessly to make Montana a better state. He was a lifelong public servant, and even after retirement, he devoted his time to serving Montana in the Legislature. I didn't know his accomplishments as Tom never bragged, never boasted, and most certainly didn't seek notoriety. I learned of his achievements through his colleagues in the Legislature and from folks in "high up" positions in the oil and gas industry. To this day, his only sibling, my mother, doesn't know the impact of Tom's work. I suppose this was by design, as Tom didn't feel like what he did for the state was out of the ordinary, even though his work was extraordinary.

Uncle Tom was the first in our family to go to college, and despite their disdain for Tom's politics, my grandparents were so proud of Tom's intellect and educational pursuits. The only time my grandparents had a mortgage was when they sent Tom to Montana Tech. They felt they had achieved the American dream by sending Tom to college, and their investment produced enormous returns for our state. Tom used his education as a petroleum engineer and his dynamite whit to build coalitions that created public policy supportive of responsible stewardship of Montana oil and gas resources. His work earned him a "Distinguished Alumni" award from Montana Tech. According to the Billings Gazette, "Few people were as involved in shaping Montana's energy policy as [Tom] Richmond." Tom was a 30-year employee of the Montana Board of Oil and Gas Conservation, and he also served on the Groundwater Protection Council for 15 years. As a legislator, he helped shape the state's disclosure laws for chemicals used in hydraulic fracturing of oil wells. Tom was persistent and confident in his research and opinions, yet when he encountered barriers to his work, he would simply pivot and continue to quietly persuade his skeptics. He was by all accounts a true statesman, referred to as a "work horse, not a show horse" by his colleagues.

Tom was diagnosed with terminal cancer about a month ago. I regret not telling him how much I admired him and proud to be his niece. When Tom reflected on his life's work, I hope he found peace knowing he left Montana a better place than he found it. We would all benefit if every legislator followed Tom's approach to public policy. RIP, Uncle Tommy.

Tammi Fisher is an attorney, former mayor of Kalispell and host of Montana Values Podcast.

AMERICAN OVERSIGHT

From: Sandoval, Adrienne, EMNRD
Sent: Friday, April 08, 2022 6:05 PM EDT
To: David.Greaves@exxonmobil.com <David.Greaves@exxonmobil.com>
Subject: Time for a Quick Call?

Hi David-

I went to email Janie today and found that she has left XTO and referenced you as the new contact. Would you have time for a brief call next week, shouldn't take longer than 15 minutes? Additionally, would you like us to forward the NOV discussions to you going forward?

Thanks

Adrienne Sandoval
Oil Conservation Division Director
1220 S. St. Francis Dr.
Santa Fe, NM 87505
505-476-3441
Adrienne.Sandoval@state.nm.us

AMERICAN OVERSIGHT

Subject: TOP Energy Training/New Mexico Virtual Workshop
Location: https://protect-us.mimecast.com/s/A26_CJ62pVTL0BOnuVhX70?domain=mines.zoom.us Password 167020

Start: Monday, June 21, 2021 11:00 AM EDT
End: Monday, June 21, 2021 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Coy, Dori L
Required Attendees: Coy, Dori L <dcoy@mail.utexas.edu>; Dennis, Adrian , EMNRD <Adrian.Dennis@state.nm.us>; Bustamante, Amalia, EMNRD <Amalia.Bustamante@state.nm.us>; amy.vermersch@state.nm.us <amy.vermersch@state.nm.us>; Lamkin, Baylen, EMNRD <Baylen.Lamkin@state.nm.us>; Brancard, Bill, EMNRD <bill.brancard@state.nm.us>; Hawkins, James , EMNRD <James.Hawkins@state.nm.us>; Jones, Brad A., EMNRD <brad.a.jones@state.nm.us>; Billings, Bradford, EMNRD <Bradford.Billings@state.nm.us>; Rodriguez, Brian , EMNRD <Brian.Rodriguez@state.nm.us>; Chavez, Carl J, EMNRD <CarlJ.Chavez@state.nm.us>; Hensley, Chad, EMNRD <Chad.Hensley@state.nm.us>; Whitehead, Christopher , EMNRD <Chris.Whitehead@state.nm.us>; Smith, Cory, EMNRD <Cory.Smith@state.nm.us>; Eads, Cristina, EMNRD <Cristina.Eads@state.nm.us>; Sanchez, Daniel J., EMNRD <daniel.sanchez@state.nm.us>; Smolik, Danny, EMNRD <Danny.Smolik@state.nm.us>; McClure, Dean, EMNRD <Dean.McClure@state.nm.us>; Rose-Coss, Dylan H, EMNRD <DylanH.Rose-Coss@state.nm.us>; Ames, Eric, EMNRD <Eric.Ames@state.nm.us>; Bolton, Eugene, EMNRD <Eugene.Bolton@state.nm.us>; Collins, Karen, EMNRD <Karen.Collins@state.nm.us>; Pickford, Katherine, EMNRD <Katherine.Pickford@state.nm.us>; Murphy, Kathleen A, EMNRD <KathleenA.Murphy@state.nm.us>; Fortner, Kerry, EMNRD <Kerry.Fortner@state.nm.us>; Simmons, Kurt, EMNRD <Kurt.Simmons@state.nm.us>; Barr, Leigh P EMNRD <leighp.barr@state.nm.us>; Lowe, Leonard, EMNRD <Leonard.Lowe@state.nm.us>; Martinez, Patricia L, EMNRD <PatriciaL.Martinez@state.nm.us>; Kautz, Paul, EMNRD <paul.kautz@state.nm.us>; phillip.goetz@state.nm.us <phillip.goetz@state.nm.us>; Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Jackson, Rob , EMNRD <Rob.Jackson@state.nm.us>; Hamlet, Robert, EMNRD <Robert.Hamlet@state.nm.us>; McDill, Teresa L, EMNRD <TeresaL.McDill@state.nm.us>; Venegas, Victoria, EMNRD <Victoria.Venegas@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; lee.m.dula@exxonmobil.com <lee.m.dula@exxonmobil.com>; Larry Harlan (topcorpllh@gmail.com) <topcorpllh@gmail.com>; Linda Battalora <lbattalo@mines.edu>; holson@utexas.edu <holson@utexas.edu>; Denise Winn-Bower <dwinnbow@mines.edu>; Dana Ollendyke (djm428@psu.edu) <djm428@psu.edu>; Jon Laughner <jblaughner@gmail.com>
Attachment(s): "NM EMNRD Participants List.pdf","Final_Agenda_TOPEnergy_MINES Virtual Workshop_June 21_2021.pdf"

Dori Coy is inviting you to a scheduled Zoom meeting.

Topic: Mines TOP Energy Virtual Workshop June 21, 2021

Time: Jun 21, 2021 09:00 AM to 3:00 PM**Mountain Time** (US and Canada)

Join from PC, Mac, Linux, iOS or Android: https://mines.zoom.us/j/95430655478?pwd=S01jZkUydnRBRHU0WFo1eVpGSFJmdz09
Password: 167020

Or iPhone one-tap: 13462487799,95430655478# or 16699006833,95430655478#

Or Telephone:
Dial: +1 346 248 7799 (US Toll) or +1 669 900 6833 (US Toll)
Meeting ID: 954 3065 5478
International numbers available: https://mines.zoom.us/u/adyowBTwPX

Or a H.323/SIP room system:
H.323: 162.255.37.11 (US West) or 162.255.36.11 (US East)
Meeting ID: 954 3065 5478
Password: 167020

SIP: 95430655478@zoomcrc.com
Password: 167020

AMERICAN OVERSIGHT

TopEnergy Training/New Mexico
Hydraulic Fracturing, Produced Water, and Enhanced Oil Recovery in the Permian

Virtual Workshop
Colorado School of Mines
Golden, Colorado
Monday, June 21, 2021

9:00am to 3:00pm Mountain Time

Via Zoom connection: Join from PC, Mac, Linux, iOS or Android:
https://mines.zoom.us/j/95430655478?pwd=S01jZkUydnRBRHU0WFo1eVpGSFJmdz09
Password: 167020
***This Workshop will be recorded.**

9:00-10:15 am TOPCORP Welcome, Announcements, and Introductions

- Linda Battalora, TOPCORP, Colorado School of Mines
- Jennifer Miskimins, Department Head, Petroleum Engineering, Colorado School of Mines
- Larry Harlan, TOPCORP Executive Director
- Hilary Clement Olson, TOPCORP, The University of Texas at Austin
- Jon Laughner, TOPCORP, Penn State University
- Denise Winn-Bower, TOPCORP, Colorado School of Mines
- Dana Ollendyke, TOPCORP, Penn State University
- Dori Coy, TOPCORP, The University of Texas – introduction of Participants
    - What part of New Mexico are you located?
    - What is your current role at your agency?
    - How long have you been in this role?

10:15-10:30am: BREAK; Complete survey of pre-Workshop course work (TopCorp Online Courses)

10:30-10:45am: Breakout Rooms
Discussion topics include:

- What are the most pressing issues in the field that you experience in your current role?
- Prior to the speaker presentations today, what specific questions do you have about Hydraulic Fracturing, Produced Water, and Enhanced Oil Recovery in the Permian?

10:45am – 11:00am: Report-out on Breakout sessions

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NM-EMNRD-22-0512-B-001559

11:00am-11:30am: *Presentation #1:* "Hydraulic Fracturing in the Permian"; Dr. Jennifer Miskimins, Department Head, F.H. Mick Merelli/Cimarex Energy Distinguished Department Head Chair, Petroleum Engineering Department, Colorado School of Mines

11:30-11:40pm: Participant Q&A via chat

11:40-12:10pm: *Presentation #2:* "Produced Water in the Permian"; Dr. Bridget Scanlon, Bureau of Economic Geology, University of Texas at Austin, Senior Reseach Scientist

12:10-12:20pm: Participant Q&A via chat

12:20-1:10pm: BREAK

1:10-1:40pm: *Presentation #3:* "Enhanced Oil Recovery", William ("Bill") O'Brien, Senior Engineering Consultant, Nitec LLC

1:40- 1:50pm: Participant Q&A via chat

1:50-2:50pm: Workshop Q&A (Qs for the three Panelists together)

2:50-3:00pm: Complete survey of Workshop (Dori); End of Workshop

AMERICAN OVERSIGHT



2021 New Mexico EMNRD

Participants List

Adrian Dennis	adrian.dennis@state.nm.us
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Teresa McDill	teresaL.mcdill@state.nm.us
Victoria Venegas	victoria.venegas@state.nm.us

AMERICAN OVERSIGHT

From: Bradfute, Jennifer (MRO) <jbradfute@marathonoil.com>
Sent: Friday, July 02, 2021 6:05 PM EDT
To: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>
Subject: WEG Complaint
Attachment(s): "gov.uscourts.nmd.419919.1.0.pdf"

Here is the case that I mentioned.

AMERICAN OVERSIGHT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

WILDEARTH GUARDIANS, Plaintiff, v. DAVID BERNHARDT, in his official capacity as U.S. Secretary of the Interior, and UNITED STATES BUREAU OF LAND MANAGEMENT; Defendants. Case No. 1:19-CV-00505	PETITION FOR REVIEW OF AGENCY ACTION

INTRODUCTION

1. Plaintiff WildEarth Guardians ("Guardians") hereby brings this civil action for declaratory and injunctive relief against David Bernhardt and the United States Bureau of Land Management ("BLM"), (collectively "Defendants"), for their authorization and issuance of 210 oil and gas leases covering 68,232.94 acres of land in New Mexico administered by the BLM in the agency's Pecos District, in violation of the National Environmental Policy Act ("NEPA"), 42 U.S. C. §§ 4321–4370h, the Federal Land Policy and Management Act, 43 U.S.C. §§ 1701–1787 and their implementing regulations.

2. BLM's issuance of the challenged leases confers the right to expand oil and gas development in the Greater Carlsbad region, threatening Carlsbad Caverns National Park and the surrounding area's fragile karst terrain and cave systems, steep slopes, vital wildlife habitat, and already-deteriorating air quality. In conferring rights that authorize the expansion of oil and gas development, Defendants failed to acknowledge or analyze the serious environmental

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consequences of this decision, including potentially significant impacts to climate, air quality, and water resources. Defendants also failed to take into account the significant environmental harms caused by horizontal drilling and multi-stage fracturing, relatively new technologies currently being used to dramatically expand oil and gas development in the Greater Carlsbad region.

3. Horizontal drilling and multi-stage fracturing of the various shale formations of the Permian Basin have environmental impacts that are substantially different in both kind and intensity from drilling techniques previously employed in the Greater Carlsbad region. Moreover, horizontal drilling and multi-stage fracturing have altered the economics of drilling, allowing extraction of oil and gas from tight shale formations for the first time in some areas and intensifying the scale of reasonably foreseeable development in other areas. Fundamentally, these unconventional drilling techniques pose a heightened risk of significant environmental and public health impacts, including the emission of potent greenhouse gases and hazardous air pollutants, and contamination of surface and groundwater supplies.

4. This lawsuit challenges BLM's final agency actions, which give rise to Guardians' claims. First, Guardians challenges the following final agency actions (collectively, "Leasing Authorizations"):

A. BLM's leasing decisions related to its September 7, 2017 lease sale for the Pecos District Office, which consisted of: (a) BLM's decision to proceed with the September 7, 2017 lease sale on the basis of an inadequate Environmental Assessment ("EA") and Finding of No Significant Impact ("FONSI"); (b) BLM's denial of Guardians' July 6, 2017 Protest; and (c) BLM's issuance of 61 lease parcels to Lessees on March 30, 2018.

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B. BLM's leasing decisions related to its December 7, 2017 lease sale for the Pecos District Office, which consisted of: (a) BLM's decision to proceed with the December 7, 2017 lease sale on the basis of an inadequate EA and FONSI; (b) BLM's denial of Guardians' October 6, 2017 Protest; and (c) BLM's issuance of all 7 lease parcels to Lessees on March 30, 2018.

C. BLM's leasing decisions related to its September 5–6, 2018 lease sale for the Pecos District Office, which consisted of: (a) BLM's decision to proceed with the September 5–6, 2018 lease sale on the basis of an inadequate EA and FONSI; (b) BLM's denial of Guardians' July 30, 2018 Protest; and (c) BLM's issuance of all 142 lease parcels to Lessees on October 22, 2018.

5. The specific lease parcels challenged in this action are identified in Table A at the end of this complaint.

6. In authorizing and issuing the 210 lease parcels, Defendants failed to take a hard look at the direct, indirect, and cumulative impacts of oil and gas leasing and development on the lease parcels, failed to provide a convincing statement of reasons to justify their decisions to forego an environmental impact statement ("EIS"), unlawfully proceeded with an action that will prejudice BLM's pending development of a new Carlsbad Resource Management Plan ("RMP") and accompanying EIS, and failed to provide sufficient public participation opportunities in violation of FLPMA and NEPA.

7. Second, Guardians challenges BLM's January 31, 2018 issuance of Instruction Memorandum 2018-034 ("IM 2018-034"), as an improperly issued legislative rule that failed to go through required notice-and-comment procedures under the APA. 5 U.S.C. § 553. In slashing public participation opportunities in BLM's oil and gas leasing process, BLM's issuance of IM

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2018-034 also violates the substantive public participation requirements of FLPMA and NEPA.

JURISDICTION & VENUE

8. This action arises under NEPA, 42 U.S.C. §§ 4321-4370h, FLPMA, 43 U.S.C. § 1701–1787, and the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-706.

9. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1331, because the action raises a federal question. The Court has authority to issue the requested declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201, 2202, and 5 U.S.C. §§ 705, 706.

10. This action reflects an actual, present, and justiciable controversy between Guardians and the Defendants within the meaning of the Declaratory Judgment Act, 28 U.S.C. § 2201.

11. The challenged agency actions are final and subject to judicial review pursuant to 5 U.S.C. §§ 702, 704, & 706.

12. Guardians has exhausted any and all available and required administrative remedies.

13. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(e). A substantial part of the events and omissions giving rise to this case occurred in BLM offices located in New Mexico, and this case involves public lands and environmental resources located in New Mexico.

PARTIES

14. Plaintiff WILDEARTH GUARDIANS is a non-profit membership organization based in Santa Fe, New Mexico, with offices throughout the West. Guardians has more than 231,000 members and activists, some of whom live, work, or recreate on public lands in the Greater Carlsbad region, including on and near the lease parcels challenged herein. Guardians

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and its members are dedicated to protecting and restoring the wildlife, wild places, wild rivers and health of the American West. Towards this end, Guardians and its members work to replace fossil fuels with clean, renewable energy in order to safeguard public health, the environment, and the Earth's climate.

15. Guardians' members regularly use and enjoy the wildlands, wildlife habitat, rivers, streams, and healthy environment on BLM and other public lands in New Mexico, including lands in and adjacent to the lease sale parcels that are the subject of this Complaint, as well as areas outside the lease parcels that are affected by development of the leases challenged herein. Guardians' members regularly use public lands in the Greater Carlsbad region that are on, around, and within view of lands affected by the Leasing Authorizations challenged herein for hiking, fishing, hunting, camping, spelunking, photographing scenery and wildlife, wildlife viewing, stargazing, aesthetic enjoyment, spiritual contemplation, and engaging in other vocational, scientific, and recreational activities. Guardians' members derive recreational, inspirational, scientific, educational, and aesthetic benefit from their activities on lands covered by the leases that are the subject of the Leasing Authorizations challenged herein, and on lands that are around or within view of lands affected by the Leasing Authorizations challenged herein. The affected lands within or near the lease sale parcels include very popular and iconic landscapes, including, but certainly not limited to, Carlsbad Caverns National Park, the Guadalupe Mountains, the Pecos River, the Rio Penasco, and the Black River.

16. Guardians' members intend to continue to use and enjoy BLM and other New Mexico public lands, wildlands, wildlife habitat, rivers, streams, and healthy environments, including lands affected by the Leasing Authorizations challenged herein, frequently and on an ongoing basis in the future, including this summer, fall, and winter.

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17. Guardians and its members also have a procedural interest in Defendants' full compliance with NEPA's and FLPMA's planning and decisionmaking processes for the challenged Leasing Authorizations, and Defendants' attendant duty to substantiate their decisions in the record for the challenged lease sales.

18. Guardians and its members have participated in BLM's oil and gas leasing decisions challenged in this action, including by submitting scoping comments, comments on draft NEPA documents, and administrative protests of the BLM's challenged decisions. However, BLM's unlawful promulgation and implementation of new, more restrictive public participation provisions in IM 2018-034 has negatively impacted Guardians' and its members' ability to fully review and meaningfully participate in agency decisions due to the minimal public notice and tightened comment and protest deadlines now provided. Guardians and its members continue to participate in BLM leasing decisions in the Pecos District, but the restrictive public participation opportunities now provided by BLM in accordance with IM 2018-034 have made this participation substantially more difficult. Guardians has exhausted all legally required administrative remedies before bringing this action.

19. Guardians' members' enjoyment of public lands in and adjacent to the leases challenged herein will be adversely affected and diminished as a result of Defendants' leasing actions. Guardians members have not only recreated on public lands that include various of the lease sale parcels that are the subject of this lawsuit, but they enjoy public lands adjacent to these parcels from which development would be visible. The reasonably foreseeable development of these lease parcels stands to directly alter the natural state of public lands within the lease areas and throughout the surrounding region, produce air pollution that is offensive, create noise that disrupts wildlife and recreational enjoyment and light pollution that disrupts aesthetic enjoyment

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of stargazing under New Mexico's dark skies, and lead to connected development that will further adversely impact nearby public and private lands, including road construction, truck traffic, and the construction of oil and gas pipelines and processing facilities needed to sustain the production of oil and gas on the lease parcels that are the subject of this lawsuit.

20. The aesthetic, recreational, scientific, educational, religious, and procedural interests of Guardians and its members have been adversely affected and irreparably injured by the process that led to Defendants' decisions to authorize the sale of the 210 lease parcels, and by the Leasing Authorizations which now restrict BLM's ability to prevent oil and gas development on the leased parcels. These are actual, concrete injuries caused by Defendants' failure to comply with mandatory duties under NEPA and FLPMA.

21. A favorable ruling in this case would redress the harms that Guardians and their members stand to suffer as a result of Defendants' actions. Had Defendants provided the public participation opportunities required by NEPA and FLPMA, Guardians and its members would have been able to more fully review the potential impacts of the proposed lease sales and participate in BLM's decision-making process before the leases were sold. If Defendants had properly considered the negative impacts of their actions on climate, air quality, and water resources, they likely would have rejected offering leases for sale and issuance. This would have eliminated the threat of reasonably foreseeable oil and gas development, preventing the diminishment of the enjoyment of public lands used by Guardians members. A favorable ruling would ensure that as Guardians' members continue to use and enjoy public lands affected by Defendants' actions, their harms would be reduced, if not eliminated.

22. Defendant DAVID BERNHARDT, sued in his official capacity as the Secretary of the United States Department of the Interior, is responsible for managing the public lands and

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resources in New Mexico and, in that official capacity, is responsible for implementing and complying with federal law, including the federal laws implicated by this action.

23. Defendant UNITED STATES BUREAU OF LAND MANAGEMENT, an agency within the United States Department of the Interior, is responsible for managing public lands and resources in New Mexico, including federal onshore oil and gas resources and the leasing program for those resources. In this managerial capacity, BLM is responsible for implementing and complying with federal law, including the federal laws implicated by this action.

LEGAL BACKGROUND

I. National Environmental Policy Act

24. NEPA is our "basic national charter for the protection of the environment." 40 C.F.R. § 1500.1. It was enacted—recognizing that "each person should enjoy a healthful environment"—to ensure that the federal government uses all practicable means to "assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings," and to "attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences," among other policies. 42 U.S.C. § 4331(b).

25. NEPA regulations explain, in 40 C.F.R. §1500.1(c), that:

> Ultimately, of course, it is not better documents but better decisions that count. NEPA's purpose is not to generate paperwork – even excellent paperwork – but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions that protect, restore, and enhance the environment.

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26. NEPA achieves its purpose through "action forcing procedures. . . requir[ing] that agencies take a *hard look* at environmental consequences." *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989) (citations omitted) (emphasis added).

27. "Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts." 40 C.F.R. § 1501.2.

28. Federal agencies must comply with NEPA before there are "any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented." 42 U.S.C. § 4332(2)(C)(v); *accord* 40 C.F.R. §§ 1501.2, 1502.5(a).

29. NEPA requires Defendants to consider "any adverse environmental effects which cannot be avoided." 42 U.S.C. § 4332(C)(ii). In so doing, Defendants must "identify and develop methods and procedures . . . which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." *Id.* § 4332(B).

30. To accomplish these purposes, NEPA requires that all federal agencies prepare a "detailed statement" regarding all "major federal actions significantly affecting the quality of the human environment." *Id.* § 4332(C). This statement, known as an Environmental Impact Statement ("EIS"), must, among other things, rigorously explore and objectively evaluate all reasonable alternatives, analyze all direct, indirect, and cumulative environmental effects, and include a discussion of the means to mitigate adverse environmental impacts. *Id.* §§ 1502.14 and 1502.16.

31. Direct effects include those that "are caused by the action and occur at the same time and place." *Id.* § 1508.8(a). Indirect effects include effects that "are caused by the action

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and are later in time or farther removed in distance, but are still reasonably foreseeable." *Id.* § 1508.8(b). Cumulative effects are "the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions." *Id.* § 1508.7. "Effects" are synonymous with "impacts." *Id.* § 1508.8.

32. These effects include "ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative" effects. *Id.* § 1508.8.

33. BLM's analysis must do more than merely identify impacts; it must also "evaluate the severity" of effects. *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 352 (1989); 40 C.F.R. § 1502.16(a)-(b) (recognizing that agency must explain the "significance" of effects).

34. An agency may also prepare an Environmental Assessment ("EA") to determine whether an EIS is necessary. 40 C.F.R. §§ 1501.3, 1508.9. An EA must include a discussion of alternatives and take a hard look at the environmental impacts of the action. *Id.* § 1508.9.

35. If an agency decides not to prepare an EIS, an EA must "provide sufficient evidence" to support a Finding of No Significant Impact ("FONSI"). *Id.* § 1508.9(a)(1). Such evidence must demonstrate that the action "will not have a significant effect on the human environment[.]" *Id.* § 1508.13. An assessment of whether or not an impact is "significant" is based on a consideration of the "context and intensity" of the impact. *Id.* § 1508.27. "Context" refers to the scope of the proposed action, including the interests affected. *Id.* § 1508.27(a). "Intensity" refers to the severity of the impact and must be evaluated with a host of factors in mind, including but not limited to "[u]nique characteristics of the geographic area[,]" "[t]he degree to which the possible effects on the human environment are highly uncertain or involve

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unique or unknown risks[,]" "[w]hether the action is related to other actions with individually insignificant but cumulatively significant impacts[,]" and "[w]hether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment." *Id.* § 1508.27(b). "Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment." *Id.*

36. In certain circumstances, NEPA allows an agency to "tier" a site-specific environmental analysis for a project to a broader EIS for a program or plan under which the subsequent project is carried out. *Id.* § 1508.28. When an agency tiers a site-specific analysis to a broader EIS, "the subsequent statement or environmental assessment need only summarize the issues discussed in the broader statement and incorporate discussions from the broader statement by reference and shall concentrate on the issues specific to the subsequent action." *Id.* § 1502.20.

37. The Department of Interior's NEPA regulations for using tiered documents specify that site-specific EAs "can be tiered to a programmatic or other broader-scope [EIS]." 43 C.F.R. § 46.140(c). As a general rule, however, tiering a site-specific EA to another NEPA document is only appropriate where "the conditions and environmental effects described in the broader NEPA document are still valid" or the site-specific EA addresses any exceptions. *Id.* § 46.140. If the programmatic EIS sufficiently analyzes the impacts of the site-specific action, the agency is not required to perform additional analysis of impacts. *Id.* § 46.140(a). However, if the impacts analysis in the programmatic EIS "is not sufficiently comprehensive or adequate to support further decisions," the agency's EA must explain this and provide additional analysis. *Id.* § 46.140(b).

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38. NEPA requires that, until an agency issues a Record of Decision for a pending NEPA document, "no action concerning the proposal shall be taken which would: (1) have an adverse environmental impact; or (2) limit the choice of reasonable alternatives." 40 C.F.R. § 1506.1(a)(1), (2). NEPA also prohibits agencies from making an "irreversible and irretrievable commitment of resources," without a full analysis. *Id.* § 1502.2(f).

39. According to these same regulations:

> While work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies *shall not* undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment unless such action:
>
> > (1) Is justified independently of the program;
> > (2) Is itself accompanied by an adequate environmental impact statement; *and*
> > (3) Will not prejudice the ultimate decision on the program. Interim action prejudices the ultimate decision on the program when it tends to determine subsequent development or limit alternatives.

Id. § 1506.1(c) (emphases added).

40. NEPA regulations mandate that agencies "shall to the fullest extent possible . . . [e]ncourage and facilitate public involvement in the decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2(d). Indeed, "NEPA procedures must insure that environmental information is available to public officials and citizens *before decisions are made and before actions are taken* . . . . Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." *Id.* § 1500.1(b) (emphasis added).

41. NEPA and implementing CEQ regulations specifically require federal agencies to involve the public in preparing and considering environmental documents that implement the Act. *Id*. § 1506.6; *id.* § 1506.6(b)(1) (requiring federal agencies to "[p]rovide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as

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to inform those persons and agencies who may be interested or affected"); *id.* § 1506.6(a) (requiring agencies to "make diligent efforts to involve the public in preparing and implementing their NEPA procedures"); *id.* § 1501.4(b) (requiring agencies to "involve . . . the public, to the extent practicable, in preparing [EAs]"); *id.* § 1502.19(a) (requiring public circulation of draft and final EISs).

II. The Federal Land Policy and Management Act (FLPMA)

42. Enacted in 1976, FLPMA governs BLM's management of the public lands. *See* 43 U.S.C. §§ 1701–1787. In FLPMA, Congress directed that public lands:

> be managed in a manner that will protect the quality of the scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.

43 U.S.C. § 1701(a)(8).

43. To help achieve these purposes, FLPMA requires that land use plans—called Resource Management Plans ("RMPs") for BLM lands—be developed with public input, and followed in managing the public lands. *See* 43 U.S.C. § 1712(a) (Secretary "shall, with public involvement and consistent with the terms and conditions of this Act, develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of the public lands"); *id.* § 1732(a) (Secretary "shall manage the public lands . . . in accordance with the land use plans").

44. In addition, FLPMA Section 309(e) requires that the public be allowed meaningful participation in public lands management decisions. *See* 43 U.S.C. § 1739(e). It provides:

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> In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures . . . to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands.

43 U.S.C. § 1739(e).

45. FLPMA Section 103 further defines "public involvement" as "the opportunity for participation by affected citizens in rule making, decision making, and planning with respect to the public lands, including public meetings or hearings held at locations near the affected lands, or advisory mechanisms, or such other procedures as may be necessary to provide public comment in a particular instance." 43 U.S.C. § 1702(d).

46. The Department of the Interior's regulations implementing FLPMA further require that "[t]he public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities." 43 C.F.R. § 1610.2(a).

47. FLPMA thus mandates that Interior and BLM involve the public in the "actual management of public lands." *Donald K. Majors*, 123 IBLA 142, 147 (1992). "There are strong indications that Congress intended some form of public input for all decisions that may have significant impact on federal lands." *Nat'l Wildlife Fed'n v. Burford*, 835 F.2d 305, 322 (D.C. Cir. 1987) (citing H.R. Rep. No. 1163, 94th Cong., 2d Sess. 7 (1976), U.S. Code Cong. & Ad. News 1976, p. 6181), *rev'd on other grounds*, 497 U.S. 871 (1990).

III. Administrative Procedure Act

48. The APA provides a right to judicial review for any "person suffering legal wrong because of agency action." 5 U.S.C. § 702. Actions that are reviewable under the APA include final agency actions "for which there is no other adequate remedy in a court." 5 U.S.C. § 704.

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49. Under the APA, a reviewing court shall "hold unlawful and set aside agency action . . . found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." *Id.* § 706(2)(A). A court must also compel agency action unlawfully withheld or unreasonably delayed. *Id.* § 706(1).

50. Under the APA, an agency must generally publish public notice of proposed rulemakings, including BLM land use plan revisions. *Id.* § 553. The APA carves out a "narrow" exception to this requirement for interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. *Id.* § 553(b)(A). This exception does not apply when notice or hearing is required by statute. *Id.* § 553. The Supreme Court has described a substantive or legislative-type rule as one "affecting individual rights and obligations." *Chrysler Corp. v. Brown*, 441 U.S. 281, 302 (1979). In contrast, an interpretative rule is "merely a clarification or explanation of an existing statute or rule." *First Bancorporation v. Bd. of Governors of Fed. Reserve Sys.*, 728 F.2d 434, 438 (10th Cir. 1984) (quoting *Guardian Federal Savings and Loan v. Federal Savings and Loan Ins. Corp.*, 589 F.2d 658, 664 (D.C. Cir.)). But where a "significant policy change [is] announced," this constitutes the proposal of a substantive rule subject to the rulemaking provisions of § 553. *Id.*

IV. Legal Framework for Federal Oil and Gas Lease Authorizations

A. Mineral Leasing Act

51. Under the Mineral Leasing Act ("MLA"), as amended, the Secretary of the Interior is responsible for managing and overseeing mineral development on public lands, not only to ensure safe and fair development of the mineral resource, but also to "safeguard[]…the public welfare." 30 U.S.C. § 187.

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52. The Secretary has certain discretion, constrained by the laws at issue in this case, to determine where, when, and under what terms and conditions mineral development should occur. 43 C.F.R. § 3101.1-2.

53. BLM regulations implementing the MLA provide that oil and gas "[l]ease sales shall be conducted by a competitive oral or internet-based bidding process." *Id*. § 3120.1-2.

54. BLM regulations also state that "[t]he authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale." *Id*. § 3120.1-3.

B. BLM's Oil and Gas Planning and Management

55. BLM manages onshore oil and gas development through a three-phase process. Each phase is distinct, serves distinct purposes, and is subject to distinct rules, policies, and procedures.

56. In the first phase, BLM prepares an RMP in accordance with 43 C.F.R. §§ 1600 *et seq*., along with additional guidance found in BLM's Land Use Planning Handbook (H-1601-1). An RMP projects present and future use of public lands and their resources by establishing management priorities, as well as guiding and constraining BLM's implementation-stage management. With respect to fluid minerals leasing decisions, the RMP determines which lands containing federal minerals will be open to leasing and under what general conditions, and must analyze the landscape-level cumulative impacts from predicted implementation-stage development.

57. A Reasonably Foreseeable Development Scenario underlies BLM's assumptions regarding the pace and scope of fluid minerals development within the RMP planning area. A Reasonably Foreseeable Development Scenario does not include any analysis of environmental

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impacts and is not a NEPA document.

58. In the second phase, BLM identifies the boundaries for lands to be offered for sale and proceeds to sell and execute leases for those lands through a lease sale. Leases are sold in accordance with 43 C.F.R. §§ 3120 *et seq*. Prior to January 31, 2018, BLM Instruction Memorandum ("IM") No. 2010-117 provided additional guidance regarding agency leasing procedures. As discussed further below, BLM replaced IM 2010-117 with a new, improperly promulgated rule, IM 2018-034, which drastically reduced NEPA review and public participation requirements. BLM followed the inadequate procedural requirements of IM 2018-034 for the September 2018 lease sale within the Pecos District, and has continued to do so for subsequent sales.

59. Oil and gas companies typically nominate leaseholds for sale through the submission of an "Expression of Interest." *See* 43 C.F.R. § 3120.1-1.

60. While BLM state offices manage lease sales, the BLM field offices where specific lease parcels are located are responsible for conducting NEPA review, soliciting public comment, and applying appropriate site-specific leasing stipulations.

61. BLM regulations allow for the public to protest the sale of specific parcels. *Id.* § 3120.1-3. Under the provisions of IM 2010-117, BLM previously allowed for the authorized officer to suspend the offering of specific parcels pending resolution of an applicable protest in accordance with BLM regulations, *id.* § 3120.1-3, but IM 2018-034 now mandates that the sale of parcels with pending protests proceed without delay. BLM must, however, resolve any and all protests received prior to issuing a lease parcel to a successful bidder.

62. Prior to the point BLM sells a lease, BLM may refuse to lease public lands, even if public lands were made available for leasing pursuant to the RMP. *Udall v. Tallman*, 380 U.S.

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1, 4 (1965).

63. Prior to a BLM lease sale, BLM has the authority to subject leases to terms and conditions, which can serve as "stipulations" to protect the environment. 43 C.F.R. § 3101.1-3. Once BLM issues leases, however, it may not retroactively impose lease stipulations. Instead, BLM may impose conditions of approval that are delimited by the terms and conditions of the lease. *Id*. § 3101.1-2.

64. Once sold, the lease purchaser has the right to use as much of the leased land as is necessary to explore and drill oil and gas within the lease boundaries, subject to stipulations attached to the lease. *Id*.

65. The Secretary of the Interior has the authority to cancel leases that have been "improperly issued." *Id*. § 3108.3(d). A lease may be canceled where BLM has not complied with NEPA prior to lease issuance. *Clayton W. Williams, Jr. Exxon Corp.*, 103 IBLA 192 (1988).

66. The third-phase occurs once BLM issues a lease, where the lessee is required to submit an application for permit to drill ("APD") to BLM prior to drilling. 43 C.F.R. § 3162.3-1(c). At this stage, BLM may condition the approval of the APD on the lessees' adoption of "reasonable measures" whose scope is delimited by the lease and the lessees' surface use rights. *Id*. § 3101.1-2.

67. Oil and gas operations are required to be conducted in accordance with BLM regulations at 43 C.F.R. §§ 3160 *et seq*.

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FACTUAL BACKGROUND

I. The Climate Crisis

A. The Science of Climate Change

68. The climate crisis has been intensively studied and acknowledged at the global, national, and regional scales. The scientific evidence is clear and compelling – climate change is being fueled by the human-caused release of greenhouse gas emissions, in particular carbon dioxide and methane.

69. Carbon dioxide is the leading cause of climate change and the most emitted greenhouse gas in the United States. According to a 2018 EPA report, *Inventory of U.S. Greenhouse Gas Emissions and Sinks, 1990-2016*, carbon dioxide comprised 82 percent of total U.S. greenhouse gas emissions, or 5.3 billion metric tons. EPA's data indicates that fossil fuel combustion accounted for 93.5 percent of carbon dioxide emissions in 2016.

70. The Intergovernmental Panel on Climate Change ("IPCC") is a Nobel Prize-winning scientific body within the United Nations that reviews and assesses the most recent scientific, technical, and socio-economic information relevant to our understanding of climate change. The IPCC has identified the heat-trapping effect of methane—or global warming potential—as 36 times more potent than carbon dioxide over a 100-year period and 87 times more potent over a 20-year period. Future oil and gas development on the challenged leases has the potential to significantly increase methane emissions in BLM's Pecos District, and more generally in the Greater Carlsbad region's Permian Basin.

71. In a 2014 summary to policymakers, the IPCC provided a summary of our understanding of human-caused climate change. Among other things, the IPCC stated:

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- Human influence on the climate system is clear, and recent anthropogenic emissions of greenhouse gases are the highest in history. Recent climate changes have had widespread impacts on human and natural systems.

- Warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen.

- Anthropogenic greenhouse gas emissions have increased since the pre-industrial era, driven largely by economic and population growth, and are now higher than ever. This has led to atmospheric concentrations of carbon dioxide, methane, and nitrous oxide that are unprecedented in at least the last 800,000 years. Their effects, together with those of other anthropogenic drivers, have been detected throughout the climate system and are extremely likely to have been the dominant cause of the observed warming since the mid-20th century.

- In recent decades, changes in climate have caused impacts on natural and human systems on all continents and across the oceans. Impacts are due to observed climate change, irrespective of its cause, indicating the sensitivity of natural and human systems to changing climate.

- Continued emission of greenhouse gases will cause further warming and long-lasting changes in all components of the climate system, increasing the likelihood of severe, pervasive, and irreversible impacts for people and ecosystems. Limiting climate change would require substantial and sustained reductions in greenhouse gas emissions which, together with adaptation, can limit climate change risks.

- Surface temperature is projected to rise over the 21st century under all assessed emission scenarios. It is very likely that heat waves will occur more often and last longer, and that extreme precipitation events will become more intense and frequent in many regions. The ocean will continue to warm and acidify, and global mean sea level will continue to rise.[1]

72. Just recently, the IPCC reaffirmed the severe impacts from climate change and that rapid action away from fossil fuels is needed if we are to limit the impacts of climate change:

- Human activities are estimated to have caused approximately 1.0°C of global warming above pre-industrial levels, with a likely range of 0.8°C to 1.2°C. Global warming is likely to reach 1.5°C between 2030 and 2052 if it continues to increase at the current rate.

[1] IPCC AR5, *Summary for Policymakers* (Mar. 2014).

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- Warming from anthropogenic emissions from the pre-industrial period to the present will persist for centuries to millennia and will continue to cause further long-term changes in the climate system, such as sea level rise, with associated impacts but these emissions alone are unlikely to cause global warming of 1.5°C.

- Climate models project robust differences in regional climate characteristics between present-day and global warming of 1.5°C, and between 1.5°C and 2°C. These differences include increases in: mean temperature in most land and ocean regions, hot extremes in most inhabited regions, heavy precipitation in several regions, and the probability of drought and precipitation deficits in some regions.

- Climate-related risks to health, livelihoods, food security, water supply, human security, and economic growth are projected to increase with global warming of 1.5°C and increase further with 2°C.

- Pathways limiting global warming to 1.5°C with no or limited overshoot would require rapid and far-reaching transitions in energy, land, urban and infrastructure (including transport and buildings), and industrial systems (high confidence). These systems transitions are unprecedented in terms of scale, but not necessarily in terms of speed, and imply deep emissions reductions in all sectors, a wide portfolio of mitigation options and a significant upscaling of investments in those options (medium confidence).[2]

73. The western U.S. is particularly susceptible to the effects of climate change. The West is already experiencing increasing temperatures and prolonged droughts, with widespread impacts across our forests, wildlife, and human communities and threatening the West's resilience in the face of continued warming. Local economies, which are reliant on consistent precipitation and snowfall for surface and groundwater recharge, agriculture, recreation, and other uses, have also seen significant impacts.

74. With particular regard to the Southwest Region—which includes New Mexico—the Third National Climate Assessment included the following overview:

[2] IPCC SR 15, *Global Warming of 1.5°: Summary for Policy Makers* (Oct. 2018), http://report.ipcc.ch/sr15/pdf/sr15_spm_final.pdf.

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- Snowpack and streamflow amounts are projected to decline in parts of the Southwest, decreasing surface water supply reliability for cities, agriculture, and ecosystems.

- The Southwest produces more than half of the nation's high-value specialty crops, which are irrigation-dependent and particularly vulnerable to extremes of moisture, cold, and heat. Reduced yields from increasing temperatures and increasing competition for scarce water supplies will displace jobs in some rural communities.

- Increased warming, drought, and insect outbreaks, all caused by or linked to climate change, have increased wildfires and impacts to people and ecosystems in the Southwest. Fire models project more wildfire and increased risks to communities across extensive areas.

- Projected regional temperature increases, combined with the way cities amplify heat, will pose increased threats and costs to public health in southwestern cities, which are home to more than 90% of the region's population. Disruptions to urban electricity and water supplies will exacerbate these health problems.

75. The Fourth National Climate Assessment, released in 2018, notes that temperatures have already "increased across almost all of the Southwest region from 1901 to 2016," magnifying the impacts of drought and wildfire. For example, hotter temperatures have already contributed to reductions in snowpack, amplifying drought conditions in the Colorado River Basin, the Rio Grande, and other critical watersheds. It is also estimated that the area burned by wildfire across the western United States between 1984 and 2015 was twice what would have burned had climate change not occurred.

76. Future projections for the region from the Fourth National Climate Assessment are even more alarming. Climate change threatens to lead to "to aridification (a potentially permanent change to a drier environment) in much of the Southwest, through increased evapotranspiration, lower soil moisture, reduced snow cover, earlier and slower snowmelt, and changes in the timing and efficiency of snowmelt and runoff." Climate change-

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related drought has already had massive impacts on food production and the agricultural economy of rural areas in the Southwest, and poses a long-term threat to regional food security.

B. Federal Climate Policy and Initiatives

77. In 2001, at the start of the George W. Bush Administration, the Secretary of the Interior established Interior policy that "[t]here is a consensus in the international community that global climate change is occurring and that it should be addressed in governmental decision making." Secretarial Order 3226, *Evaluating Climate Change Impacts in Management Planning* (January 19, 2001) (amended January 16, 2009 by Secretarial Order No. 3226, Amendment No. 1) reinstated by Secretarial Order 3289 (Sept. 14, 2009)). Secretarial Order 3226 established the responsibility of Interior agencies, such as BLM, to "consider and analyze potential climate change impacts when undertaking long-range planning exercises, when setting priorities for scientific research and investigations, when developing multi-year management plans, and/or when making major decisions regarding potential utilization of resources under the Department's purview."

78. In a 2007 report entitled *Climate Change: Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources,* the U.S. Governmental Accountability Office ("GAO"), concluded that the Department of the Interior had not provided specific guidance to implement Secretarial Order 3226, that officials were not even aware of Secretarial Order 3226, and that Secretarial Order 3226 had effectively been ignored.

79. Secretarial Order 3289, *Addressing the Impacts of Climate Change on America's Water, Land, and Other Natural and Cultural Resources* (September 14, 2009), reinstated the provisions of Order 3226, and recognized that "the realities of climate change require us to change how we manage the land, water, fish and wildlife, and cultural heritage and tribal lands

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and resources we oversee," and acknowledged that Interior is "responsible for helping protect the nation from the impacts of climate change."

80. In 2009, the Environmental Protection Agency ("EPA") issued a formal finding under the Clean Air Act, 42 U.S.C. § 7521(a), that the changes in our climate caused by elevated concentrations of greenhouse gases in the atmosphere are reasonably anticipated to endanger the public health and welfare of current and future generations. 74 Fed. Reg. 66,496 (Dec. 15, 2009). EPA concluded that "the body of scientific evidence compellingly supports" the finding and recognized the potential human-induced climate change to have "far-reaching and multidimensional" impacts. *Id*. at 66,497. In 2015, EPA acknowledged more recent scientific assessments that "highlight the urgency of addressing the rising concentrations of CO_2 in the atmosphere." 80 Fed. Reg. 64,661 (Oct. 23, 2015). The D.C. Circuit upheld this decision as supported by the vast body of scientific evidence on the subject. *See Coal. for Responsible Regulation, Inc. v. EPA*, 684 F.3d 102, 120-22 (D.C. Cir. 2012).

81. The Council on Environmental Quality ("CEQ") has also recognized the unique nature of climate change and the challenges it imposes on NEPA compliance. On August 1, 2016, CEQ released *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews* (hereafter, "2016 Climate Guidance") (withdrawn on April 5, 2017, 82 Fed. Reg. 16576 (April 5, 2017)). Applicable to all proposed federal agency actions, "including land and resource management actions," *id*. at 9, the 2016 Climate Guidance recognized that:

> Climate change results from the incremental addition of GHG emissions from millions of individual sources, which collectively have a large impact on a global scale. CEQ recognizes that the totality of climate change impacts is not attributable to any single action, but are exacerbated by a series of actions including actions taken pursuant to decisions of the Federal Government. *Therefore, a statement that*

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> *emissions from a proposed Federal action represent only a small fraction of global emissions is essentially a statement about the nature of the climate change challenge, and is not an appropriate basis for deciding whether or to what extent to consider climate change impacts under NEPA.* Moreover, these comparisons are also not an appropriate method for characterizing the potential impacts associated with a proposed action and its alternatives and mitigations because this approach does not reveal anything beyond the nature of the climate change challenge itself: the fact that diverse individual sources of emissions each make a relatively small addition to global atmospheric GHG concentrations that collectively have a large impact.

Id. at 10-11 (emphasis added).

82. The 2016 Guidance also stated that "[i]n the context of long-range energy, transportation, and resource management strategies…it would be useful and efficient to provide an aggregate analysis of GHG emissions or climate change effects in a programmatic analysis and then incorporate by reference that analysis into future NEPA reviews." In particular, CEQ identifies "issuing leases for oil and gas drilling" as a "site-specific action[] that may benefit from being able to tier to a programmatic NEPA review."

83. Just as the Trump Administration's denial of the climate crisis does not alter scientific reality, its withdrawal of the 2016 Climate Guidance does not change BLM's obligation under NEPA to take a hard look and fully assess the significance of the climate impacts of its oil and gas leasing decisions. *See San Juan Citizens All. v. United States Bureau of Land Mgmt.*, 326 F. Supp. 3d 1227, 1243 (D.N.M. 2018). In failing to make such an assessment, BLM has refused to avail itself to readily-available, scientifically-accepted tools for evaluating the significance of greenhouse gas emissions.

1. Social Cost of Carbon

84. In recognition of the consequences of human-caused climate change, federal agencies have developed a protocol for assessing the social cost of carbon dioxide emissions.

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The social cost of carbon is "a measure, in dollars, of the long-term damage done by a ton of carbon dioxide (CO_2) emissions in a given year."[3] Conversely, the social cost of carbon can represent "the value of damages avoided for a small emission reduction (i.e., the benefit of a CO_2 reductions)."[4] The EPA has explained:

> The [social cost of carbon protocol] is meant to be a comprehensive estimate of climate change damages and includes changes in net agricultural productivity, human health, property damages from increased flood risk, and changes in energy system costs, such as reduced costs for heating and increased costs for air conditioning. However, it does not currently include all important damages.[5]

85. A federal Interagency Working Group ("Working Group")—consisting of the EPA, Center for Environmental Quality, Department of Energy, National Economic Council, Office of Management and Budget, Department of Agriculture, Department of Commerce, Department of Transportation, and other agencies—has prepared estimates of the cost that carbon pollution has on society. The Working Group prepared its first Social Cost of Carbon estimates in 2010, which was subsequently updated in 2013, 2015, and 2016.[6]

86. The Working Group's Social Cost of Carbon estimates vary according to assumed discount rates and presumptions regarding the longevity and damages caused by carbon pollution in the atmosphere, which for 2015 produced a range of between $11 and $105 per metric ton of carbon dioxide. Accepted practice typically applies the median value to determine the social costs of a given project, although the range of values provided by the Working Group is also

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[3] EPA, "Fact Sheet: The Social Cost of Carbon" (Dec. 2016), available at https://www.epa.gov/sites/production/files/2016-12/documents/social_cost_of_carbon_fact_sheet.pdf (last accessed May 30, 2019).
[4] *Id.*
[5] *Id.*
[6] Interagency Working Group, "Technical Support Document: Technical Update of the Social Cost of Carbon for Regulatory Impact Analysis Under Executive Order 12866" at 3 (revised August 2016).

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useful for comparing alternatives and evaluating the significance of climate impacts from a program or project. For 2020, the median Social Cost of Carbon value is $42 per metric ton, which increases over time as additional carbon emissions become more costly to society.

2. Carbon Budgeting

87. Carbon budgeting is another well-established method for estimating the impacts from greenhouse gas emissions. BLM, however, did not use this useful tool to assess the significance of the impacts from greenhouse gas emissions resulting from the leasing authorizations.

88. The 2018 IPCC special report on *Global Warming of 1.5°C* provided a global carbon budget for a 66 percent probability of limiting warming to 1.5°C, estimated at 420 billion tons of CO_2 and 570 billion tons of CO_2 depending on the temperature dataset used, from January 2018 onwards. At the current emissions rate of 42 billion tons of CO_2 per year, this carbon budget would be expended in just 10 to 14 years, underscoring the urgent need for transformative national and global action to transition from fossil fuel use to clean energy. Importantly, a 2016 global analysis found that the carbon emissions that would be emitted from burning the oil, gas, and coal in the world's *currently operating* fields and mines would fully exhaust and exceed the carbon budgets consistent with staying below 1.5°C or 2°C.[7] Further, the reserves in currently operating oil and gas fields alone, even excluding coal mines, would lead to warming beyond 1.5°C. An important conclusion of the analysis is that *most* of the existing oil and gas fields and coal mines will need to be closed before their reserves are fully extracted in order to limit

[7] Oil Change International, The Sky's Limit: Why the Paris Climate Goals Require a Managed Decline of Fossil Fuel Production (September 2016), available at: http://priceofoil.org/2016/09/22/the-skys-limit-report/.

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warming to 1.5 degrees.[8] A significant portion of existing fields and mines will need to be closed to limit warming even to 2 degrees.[9]

89. The potential carbon emissions from *existing* fossil fuel reserves—the known belowground stock of extractable fossil fuels—considerably exceed both 2°C and 1.5°C of warming. "Estimated total fossil carbon reserves exceed this remaining [carbon budget] by a factor of 4 to 7."[10] Studies estimate that global coal, oil and gas resources considered currently economically recoverable contain potential greenhouse gas emissions of 4,196 billion tons CO_2,[11] with other estimates as high as 7,120 billion tons CO_2.[12] "For the 2°C or 1.5°C limits, respectively, 68% or 85% of reserves must remain in the ground."[13]

90. Research on the United States' carbon budget similarly establishes that the U.S. must halt new fossil fuel production and rapidly phase out existing production to avoid the worst dangers of climate breakdown. Scientific studies have estimated the U.S. carbon budget consistent with a 1.5°C target at 25 billion tons CO_2-equivalent (CO_2e[14]) to 57 billion tons CO_2e

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[8] Oil Change International, *The Sky's Limit California: Why the Paris Climate Goals Demand That California Lead in a Managed Decline of Oil Extraction*, 7, 13 (2018), available at: http://priceofoil.org/ca-skys-limit.
[9] Oil Change International, *supra* note 7 at 5, 7.
[10] IPCC, *Climate Change 2014 Synthesis Report*, at 63 (2014), available at https://www.ipcc.ch/site/assets/uploads/2018/02/SYR_AR5_FINAL_full.pdf.
[11] Michael Raupach, *et al., Sharing a quota on cumulative carbon emissions*, Nature Climate Change (Sept. 2014).
[12] IPCC, *Climate Change 2014, Mitigation of Climate Change, Contribution of Working Group III to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change*, at 525 tbl. 7.2 (2014), available at: https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.
[13] Oil Change International, supra note 7, at 6; *see also* Kevin Anderson and Alice Bows, *Reframing the climate change challenge in light of post-2000 emission trends*, Phil. Trans. R. Soc. (2008) ("to provide a 93% mid-value probability of not exceeding 2°C, the concentration (of atmospheric greenhouse gases) would need to be stabilized at or below 350 parts per million carbon dioxide equivalent (ppm CO_2e)" compared to the current level of ~485 ppm CO_2e.).
[14] CO2-equivalent, or CO2e emissions are used to provide a standard unit of measure taking into account the differing global warming potentials of different greenhouse gases.

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on average,[15] depending on the sharing principles used to apportion the global budget across countries. The estimated U.S. carbon budget consistent with limiting temperature rise to 2°C—a level of warming well above what the Paris Agreement requires and which would result in devastating harms to human society and the environment—ranges from 34 billion tons CO_2e to 123 billion tons CO_2e.[16] Under any scenario, the remaining U.S. carbon budget compatible with the Paris climate targets is extremely small in comparison to fossil fuel reserves and in light of current emissions rates.

91. Federal fossil fuel resources on public lands, however, contain enough recoverable coal, oil and gas that, if extracted and burned, would result in as much as 492 billion tons CO_2e,[17] far surpassing the entire *global* carbon budget for a 1.5°C target and nearly eclipsing the 2°C target, even without taking into consideration any consumption of fossil fuels produced on non-federal lands, much less the 192 countries in the world other than the United States. Unleased federal fossil fuels comprise 91% of these potential emissions, with already leased federal fossil fuels accounting for as much as 43 billion tons CO_2e, essentially using up the entire remaining U.S. carbon budget.[18] To stay within the U.S. carbon budget as needed to

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[15] Yann Robiou du Pont et al., *Equitable mitigation to achieve the Paris Agreement goals*, 7 Nature Climate Change 38 (2017), and Supplemental Tables 1 and 2. Quantities measured in $GtCO_2eq$ include the mass emissions from CO_2 as well as the other well-mixed greenhouse gases (CO_2,methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and SF_6) converted into CO_2-equivalent values, while quantities measured in $GtCO_2$ refer to mass emissions of just CO_2 itself.

[16] *Id.*; Glen Peters, et al., *Measuring a fair and ambitious climate agreement using cumulative emissions*, 10 Environmental Research Letters 105004 (2015); Renaud Gignac and H. Damon Matthews, *Allocating a 2°C cumulative carbon budget to countries*, 10 Environmental Research Letters 075004 (2015).

[17] Eco-Shift Consulting, *The Potential Greenhouse Gas Emissions of U.S. Federal Fossil Fuels* at 18 (2015), available at: https://www.biologicaldiversity.org/publications/papers/Potential-Greenhouse-Gas-Emissions-U-S-Federal-Fossil-Fuels.pdf.

[18] *Id.*

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avoid catastrophic climate breakdown, "emissions from new federal fossil fuel leasing are precluded given the potential emissions from already-leased federal fossil fuels and those of non-federal fossil fuels."[19]

92. Between 2003 and 2014, approximately 25% of all United States and 3-4% of global fossil fuel greenhouse gas emissions have been attributable to federal minerals leased and developed by Interior.[20] Continued leasing and development of federal fossil fuel resources commits the world to "extremely dangerous" warming well beyond the 1.5°C and 2°C thresholds. In short, *any* new leasing of federal fossil fuel resources is inconsistent with a carbon budget that would seek to avoid catastrophic climate change.

93. The production horizons for already leased federal fossil fuel resources underscore how unwarranted any additional leasing is. Comparing these production horizons to dates at which carbon budgets would be exceeded if current emission levels continue:

- Federal crude oil *already leased* will continue producing for 34 years beyond the 1.5°C threshold and 19 years beyond the 2°C threshold;
- Federal natural gas *already leased* will continue producing 23 years beyond the 1.5°C threshold and 8 years beyond the 2°C threshold;
- Federal coal *already leased* will continue producing 20 years beyond the 1.5°C threshold and 5 years beyond the 2°C threshold.[21]

94. If new leasing and renewal of existing non-producing leases continues, by 2040 it

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[19] *Id.* at 27.

[20] *See* Energy Info. Admin., *Sales of Fossil Fuels Produced from Federal and Indian Lands, FY 2003 through FY 2014* (July 2015), available at: https://www.eia.gov/analysis/requests/federallands/pdf/eia-federallandsales.pdf; *see also* Stratus Consulting, "Greenhouse Gas Emissions from Fossil Fuel Energy Extracted from Federal Lands and Waters: An Update" at 10 (2014), available at: http://riggingthesystem.org/wp-content/uploads/2017/07/Stratus-Report.pdf (last accessed May 24, 2019).

[21] Dustin Mulvaney, *et al.*, EcoShift Consulting, *Over-Leased: How Production Horizons of Already Leased Federal Fossil Fuels Outlast Global Carbon Budgets*, 2, 5 (2016) (emphases added).

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will contribute about two-thirds of expected federal fossil fuel production (forecast based on EIA and other sources).[22] On the other hand, if new leasing ceases and existing non-producing leases are not renewed, 40% of forecast coal production could be avoided in 2025 and 74% of coal production could be avoided in 2040. As for oil and gas, 12% of oil production could be avoided in 2025 and 65% could be avoided by 2040 while 6% of natural gas production could be avoided in 2025 and 59% could be avoided by 2040.[23]

95. This avoided production would significantly reduce future U.S. emissions, and is desperately needed to avoid catastrophic climate change. Cessation of new and renewed leases for federal fossil fuel extraction could keep up to 450 billion tons of CO_2e emissions from being emitted.[24]

C. Climate Denial Under the Trump Administration

96. Despite the clear scientific evidence that greenhouse gas emissions are the primary cause of global climate change, with dire consequences for human civilization, the Trump Administration, including Defendants, has failed to take seriously the catastrophic risks of the climate crisis.

97. President Trump has repeatedly questioned the clearly-established scientific link between greenhouse gas emissions and climate change. For example, analysis published in June 2017 found at least 115 instances of President Trump publicly expressing climate change skepticism, calling climate change or "global warming," among other things, "mythical," "non-

[22] Peter Erickson & Michael Lazarus, Stockholm Environmental Institute, *How Would Phasing Out U.S. Federal Leases for Fossil Fuel Extraction Affect CO2 Emissions and 2°C Goals?* 12 (2016).
[23] *Id.* at 16.
[24] Eco-Shift Consulting, *supra* note 17, at 26.

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existent," an "expensive hoax," and "based on faulty science and manipulated data."[25] President Trump has repeatedly raised periods of cold weather as calling into doubt "global warming," exhibiting a fundamental ignorance regarding the distinction between weather and climate. President Trump's stated beliefs on climate change are fundamentally at odds with the consensus of the scientific community. For example, in an interview on 60 Minutes, President Trump declared: "I don't know that it's man-made. I'm not denying climate change, but it could very well go back."

98. In keeping with the President's professed skepticism regarding the scientific reality of human-caused climate change, the Trump Administration has repeatedly sought to undermine government programs designed to avert or mitigate the effects of climate change.

99. For example, CEQ withdrew the 2016 Climate Guidance on April 5, 2017. 82 Fed. Reg. 16,576 (2017). The public notice for CEQ's withdrawal, however, included no explanation for the action, and did not call into question or alter the factual basis for the 2016 Climate Guidance's determination regarding the cumulative, incremental nature of all sources contributing to climate change.

100. The Trump Administration's unofficial policy of climate change denial does not change reality or science. In 2018, the Fourth National Climate Assessment identified future emissions of greenhouse gases as the main driver of future climate conditions, concluding that "[w]ith significant reductions in emissions, global temperature increase could be limited to 3.6°F (2°C) or less compared to preindustrial temperatures." In contrast, the risks of uncontrolled

[25] Dylan Matthews, *Donald Trump has tweeted climate change skepticism 115 times. Here's all of it.* Vox, June 1, 2017, https://www.vox.com/policy-and-politics/2017/6/1/15726472/trump-tweets-global-warming-paris-climate-agreement.

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climate change are dire, with the National Climate Assessment concluding that "[w]ithout significant reductions, annual average global temperatures could increase by 9°F (5°C) or more by the end of this century compared to preindustrial temperatures." Impacts of climate change identified by the National Climate Assessment include warming and acidifying oceans, increases in U.S. and global temperatures, changes in precipitation patterns, increases in severe storms, rising global sea levels and increases in coastal flooding, and rapid Arctic changes.

101. Despite the overwhelming scientific consensus backing the conclusions of the National Climate Assessment, President Trump largely dismissed the report, stating during an interview that he was not one of the ''believers'' and did not view climate change as a pressing matter. ''As to whether or not it's man-made and whether or not the effects that you're talking about are there, I don't see it,'' he said.

102. When asked by a reporter about the hundreds of billions of dollars in annual economic impacts of climate change projected by the National Climate Assessment, President Trump replied simply, "I don't believe it."

103. Administration spokesperson Sarah Huckabee Sanders has echoed the President, stating the Administration's position that the nearly 1,700 page National Climate Assessment, prepared by hundreds of scientific experts, was "not based on facts," and "not data-driven."

D. The Trump Administration's Push for American "Energy Dominance"

104. In keeping with the President's skepticism regarding the public health and welfare impacts of climate change, the Trump Administration has explicitly pursued a policy of American "energy dominance," based on a dramatic expansion of fossil fuel development in the country, at the expense of environmental protections and public participation in agency decisionmaking.

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105. In pursuit of this "energy dominance" policy, the Trump Administration has pursued a variety of tactics to roll back existing environmental regulations, speed up permitting for fossil fuel development projects, and otherwise free up the fossil fuel industries to maximize domestic production.

106. Since taking office in January 2017, the Trump Administration has been working systematically to dismantle and/or avoid protections for public lands and their resources in order to promote oil, gas, and other fossil fuel development. This new policy direction has been led by former Interior Secretary Ryan Zinke and Defendant David Bernhardt, a former energy industry lobbyist who is now Interior Secretary.

107. For example, in 2016, the Obama Administration adopted a regulation designed to reduce emissions of methane, a potent greenhouse gas, from oil and gas production on public lands. BLM, Waste Prevention, Production Subject to Royalties, and Resource Conservation, 82 Fed. Reg. 83,008 (Nov. 18, 2016) ("Methane Rule"). After an attempt to delay implementation of the rule was rejected by a federal district, Order Denying Motion to Transfer Venue and Granting Preliminary Injunction, *California v. BLM*, No. 3:17-cv-07187-WHO (N.D. Cal. Feb. 22, 2018), the Administration sought to rescind the Methane Rule, without offering any constructive policy proposals to manage this potent greenhouse gas. *See* U.S. Dep't of Interior, Waste Prevention, Production Subject to Royalties, and Resource Conservation; Rescission or Revision of Certain Requirements ("Methane Rescission Rule"), 83 Fed. Reg. 49,184, 49,184 (Sept. 28, 2018). Guardians and a coalition of other environmental groups have challenged the 2018 Methane Rescission Rule in federal court. Complaint for Declaratory and Injunctive Relief, *Sierra Club v. Zinke*, No. 3:18-cv-05984, 2018 WL 4694367 (N.D. Cal. Sept. 28, 2018).

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108. The Obama Administration's Methane Rule also clarified BLM's authority under the Mineral Leasing Act, 30 U.S.C. § 223, to set royalty rates at *or above* 12.5%. But the Trump Administration has tried to walk back this authority, setting BLM royalty rates at the statutory minimum of 12.5%. 2018 Methane Rescission Rule, 83 Fed. Reg. at 49,184.

109. In January 2018, then-Interior Secretary Ryan Zinke announced a proposed radical revision to the National Outer Continental Shelf Oil and Gas Leasing Program (National Offshore Program) for 2019-2024, which proposes to make over 90 percent of the total Outer Continental Shelf acreage and more than 98 percent of undiscovered, technically recoverable oil and gas resources in federal offshore areas available to consider for future exploration and development. By comparison, Interior noted that the current program placed 94 percent of the Outer Continental Shelf off-limits. The Trump Administration's National Offshore Program would open up the Atlantic coast for offshore drilling, reversing the Obama Administration's removal of Atlantic waters from oil exploration, and also proposes the largest number of lease sales in U.S. history.

110. Interior has further touted plans to open the Arctic National Wildlife Refuge to oil and gas development, and BLM issued a Draft EIS in December 2018 that considers opening up to 100% of the Refuge's 1.56-million-acre Coastal Plan area to oil and gas development. BLM estimates indicate that oil and gas development in the area could generate greenhouse gas emissions of up to 5 million metric tons annually. Based on the Working Group's estimates, the annual social cost of carbon of this extraction would range from $55 million to $525, with a median value of $210 million each year and continuing for decades.

111. The Trump Administration's obsession with American "energy dominance" has come at the direct cost of environmental protections. For example, soon after assuming office,

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President Trump signed Executive Order 13771 (Jan. 30, 2017), requiring agencies proposing any new regulations to identify "at least two existing regulations to be appealed."

112. Executive Order 13777 (Feb. 24, 2017), Enforcing the Regulatory Reform Agenda, further set forth the Trump Administration's policy of eliminating so-called "regulatory burdens," such as environmental protections. The Executive Order mandated the establishment of agency Regulatory Reform Task Forces to review existing regulations and make recommendations for "repeal, replacement, or modification" to promote the "regulatory reform agenda," including identification of any regulations that "eliminate jobs, or inhibit job creation."

113. On March 28, 2017, President Trump signed an Executive Order on Promoting Energy Independence and Economic Growth, which rescinded various executive policies designed to address the threat of climate change, including EO 13653 (Preparing the United States for the Impacts of Climate Change), Presidential Memorandum of September 21, 2016 (Climate Change and National Security), The President's Climate Action Plan, and the Climate Action Plan Strategy to Reduce Greenhouse Gas Emissions. The March 28, 2017 EO further directed all federal agencies to review all existing agency actions that "potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources."

114. Following the Trump Administration's deregulatory and "energy dominance" agenda, on March 29, 2017 Interior issued Secretarial Order 3349, entitled "American Energy Independence," which directed bureaus and agencies within Interior to review a slew of actions related to energy development and climate change policy to identify any "burdens" on energy development, particularly fossil fuels and nuclear energy.

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115. In its *Final Report: Review of the Department of Interior Actions that Potentially Burden Domestic Energy* (Nov. 1, 2017), Interior reported on its efforts "[t]o ensure energy policies receive the highest level attention" across the agency, to promote energy development on public lands, to eliminate regulatory burdens on energy production, and promote "efficient and effective processing of energy-related authorizations, permits, regulations, and agreements."

116. Following this deregulatory agenda, the Trump Administration is further considering amending the CEQ NEPA regulations to make the NEPA process "more efficient [and] timely," and has sought public comment on means to reduce "unnecessary burdens and delays" in the process. Council for Envtl. Quality, Update to the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 83 Fed. Reg. 28,591 (2018).

117. Thus, there remains a fundamental disconnect between the scientific community's understanding of the causes and likely impacts of climate change and the management of our public lands predominantly for fossil fuel energy production. Defendants have consistently failed to take informed action to address climate change, as required by NEPA and Secretarial Orders 3226 and 3289, because they fail to take a hard look at the climate impacts of oil and gas leasing and development on our public lands, including the impacts from leasing the specific parcels in the Leasing Authorizations challenged herein. But as stated in Order 3289, BLM must "appl[y] scientific tools to increase understanding of climate change and to coordinate an effective response to its impacts," and "[m]anagement decisions made in response to climate change impacts must be informed by [this] science."

E. BLM's Instruction Memorandum 2018-034

118. In its *Final Report: Review of the Department of Interior Actions That Potentially Burden Domestic Energy*, Interior indicated that an existing BLM Instruction Memorandum

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governing BLM's oil and gas leasing process, IM 2010-117, would be "replaced with revised guidance for the purpose of establishing greater efficiencies in the oil and gas leasing process." In replacing the 2010 guidance, BLM sought to "to streamline the leasing process from beginning (i.e. receipt of an Expression of Interest) to end (competitively offering the nominated acreage in a lease sale)," and specifically evaluated ways to significantly reduce the review process timeframe from nomination to lease sale by half or more. Arbitrarily cutting short BLM's lease sale review period, including its NEPA review period, was explicitly intended to allow industry to "execute exploration and production strategies earlier," and Interior noted that "[r]educing the average time from acreage nomination to lease sale will be BLM's measure of success."

119. On January 31, 2018, BLM issued Instruction Memorandum 2018-034, titled "Updating Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews." IM 2018-034 overhauled the oil and gas leasing requirements established in IM 2010-117. Its stated purpose is to "simplify and streamline the leasing process to alleviate unnecessary impediments and burdens, to expedite the offering of lands for lease, and to ensure quarterly oil and gas lease sales are held consistently in accordance with the Mineral Leasing Act (30 U.S.C. § 226), Executive Order 137873, and Secretary Order 3354."

120. In adopting the IM 2018-034, BLM clearly directs BLM staff to prioritize the speedy processing of oil and gas leases over environmental protection and public involvement, explicitly stating that the new policy is "intended to result in additional revenue from increased lease sales and reduced costs for NEPA review, planning, responses to protests, and associated oil and gas program costs." BLM further notes that agency staff may be shifted from other program areas to meet "this high priority program area need."

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121. IM 2018-034 eliminated language in BLM's prior IM 2010-117 that "there was no presumed preference for oil and gas" over other uses of public lands, and imposed substantive changes intended to promote oil and gas leasing and development, including:

- Rescinding BLM's use of Master Leasing Plans, a front-end planning strategy designed to take a landscape-level approach to reviewing proposed leasing;
- Removing public participation requirements during the NEPA review of parcels identified for potential leasing, by replacing language from IM 2010-117 stating that BLM offices "will" provide for public participation during the NEPA process with a provision that they "may" provide for public participation;
- Stating that "BLM will no longer use a rotating schedule for lease sales, as described in IM No. 2010-117," and instead directing that "the timeframe for parcel review for a specific lease sale is to be no longer than 6 months," and each State Office "will review all lands that are identified in EOIs [Expressions of Interest] that were submitted before the EOI cutoff date for a particular quarterly lease sale and will offer all parcels determined to be eligible and available within the State Office's jurisdiction"; and
- Announcing that BLM would no longer "defer" lease sales when an RMP amendment or revision is pending, but instead will use the existing RMP to approve the lease sale no matter how old or outdated it might be, and discouraging further environmental review by requiring Washington office approval of any decision to defer a nominated parcel for additional analysis.

122. IM 2018-034 also encourages BLM State Offices to shorten their review process before selling off oil and gas leases in numerous ways, including by:

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- Providing that "site visits are not required and should only be considered when deemed necessary by the authorized officer on a case-by-case basis";
- Encouraging BLM State or Field offices to use "existing NEPA document(s)" and a "Determination of NEPA Adequacy (DNA)" instead of new NEPA environmental reviews, and providing that no public comment period is required where a DNA is used;
- Reducing the time period between posting of a final sale notice and sale date from 90 days to 45 days;
- Reducing the protest period from 30 days to 10 days; and
- Allowing BLM to proceed with lease sales before it resolves protests, and giving BLM up to 60 days after receiving payment on a lease to resolve protests.

123. BLM regulations allow for lease sales to be suspended pending resolution of administrative protests and appeals, stating that "[t]he authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale." 43 C.F.R. § 3120.1-3. Further, "the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal." *Id.* IM 2018-034, however, eliminates BLM officers' discretion to suspend the sale of protested parcels pending resolution of the protest, specifically providing that "[p]arcels subject to protests that are not resolved (i.e., pending protests) *will be offered for lease sale*." (emphasis added).

124. BLM did not provide public notice, an opportunity for comment, or respond to comments prior to adopting IM 2018-034.

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125. BLM is now implementing IM 2018-034 in its administration of federal minerals and oil and gas leasing on public lands, including in its review and Leasing Authorizations related to the September 2018 lease sale at issue here.

126. Guardians and the public are substantially injured and prejudiced by BLM's "policy" changes undertaken through IM 2018-034, including by allowing BLM to avoid NEPA compliance in future oil and gas leasing, and its failure to allow adequate time or opportunity for public comment and protest of proposed oil and gas lease sales.

127. IM 2018-034 has substantially altered how BLM processes and approves oil and gas leases on public lands, and directly affects the rights of Guardians and members of the public to have notice, opportunity to comment, and petition the agency for relief. IM 2018-034 was issued without public notice or comment, despite its substantial changes and impacts upon public involvement. As alleged below, the portions of IM 2018-034 challenged herein constitute a legislative rule that Interior adopted in violation of APA, NEPA, and FLPMA's requirements for notice, comment, and public involvement in federal lands' decision-making, and thus is unlawful and should be reversed and set aside by the Court.

128. BLM oil and gas leasing decisions that have been made, or hereafter are made, under IM 2018-034 are unlawful and should be reversed and set aside as well, including the Leasing Authorizations challenged in this case for the September 2018 lease sale.

F. Greenhouse Gas Pollution from BLM's Oil and Gas Management Program

129. BLM is responsible for the management of nearly 700 million acres of federal onshore subsurface minerals. Based on 2012 figures, the ultimate downstream GHG emissions from fossil fuel extraction from federal lands and waters by private leaseholders accounts for

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approximately 21% of total U.S. GHG emissions and 24% of all energy-related GHG emissions.[26]

130. As of October 2018, BLM managed lands contained 38,147 individual oil and gas lease parcels, covering over 25.5 million acres of public lands, on which 96,199 active producible wells are drilled. The area already leased for oil and gas extraction covers an area nearly as large as all federal lands combined in the State of New Mexico (27.5 million acres), and would cover more than 35% of the entire State of New Mexico.

131. BLM's Oil and Gas Leasing Program already contributes vast amounts of GHGs into the atmosphere, posing a threat to climate, the natural environment, and public health. In a single year (using 2012 figures), GHG emissions from oil extracted from federal lands resulted in the release of an estimated 2,999 tons of methane, 56,346,510 tons of carbon dioxide, and 2,985 tons of nitrous oxide, for a total release of 57,311,142 metric tons CO_2e.[27] That same year, GHG emissions from natural gas extracted from federal lands resulted in the estimated total release of 144,587,927 metric tons CO_2e. Accordingly, in a single year BLM's Oil and Gas Leasing Program resulted in the release of an estimated 201,899,069 metric tons CO_2e. This is the equivalent of annual greenhouse gas emissions from over 58 coal-fired power plants.

132. In 2018, the U.S. Geological Survey ("USGS") also released its first ever inventory of greenhouse gas emissions associated with federal coal and oil and gas production. The report revealed that federal fossil fuel production contributes to 24% of all U.S. carbon

[26] Stratus Consulting, *supra* note 21, at 10.
[27] *Id*. at 11.

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dioxide emissions and to nearly 25% of all U.S. greenhouse gas emissions.[28] New Mexico in particular was reported to be the source of 6% of all CO_2 emissions from federal fossil fuel production, higher than all but one other state. New Mexico was also found to be the source of 23% of all methane emissions from federal lands, higher than every state except Wyoming.

G. Oil and Gas Development in the Greater Carlsbad Region

133. Oil and gas development in the Greater Carlsbad region of southeast New Mexico and northwest Texas is central to the Trump Administration's "energy dominance" strategy. This area is known to the oil industry as the Permian Basin, based on geologic nomenclature for the predominantly Permian-era oil- and gas-bearing formations in the region.

134. BLM's Pecos District, consisting of the Carlsbad Field Office and Roswell Field Office, generally covers the New Mexico portion of the Greater Carlsbad region/Permian Basin, which includes all or part of Eddy, Lea, Chavez, Roosevelt, and Quay counties. All of the challenged Lease Authorizations relate to land within BLM's Pecos District.

135. Oil and gas development has been ongoing in the Greater Carlsbad region for nearly a century; however, recent technological developments over the past 10 years have significantly lowered the costs of production and enabled a dramatic and unprecedented expansion in regional production.

136. Specifically, the widespread adoption of horizontal drilling and multi-stage hydraulic fracturing by the oil and gas industry has opened up significant areas of "tight oil" to production that was previously uneconomical to extract, thereby enabling a boom in oil and gas

[28] *See* Merrill, M.D. et al., 2018, *Federal lands greenhouse gas emissions and sequestration in the United States—Estimates for 2005–14: U.S. Geological Survey Scientific Investigations Report 2018-5131* at 1 (2018).

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production in the Greater Carlsbad region.

137. The Permian boom is part of a broader expansion by the oil and gas industry into previously uneconomical tight oil and gas plays. According to the U.S. Energy Information Administration, in December 2018, U.S. shale and tight plays produced about 65 billion cubic feet per day of natural gas (70% of total U.S. dry gas production) and about 7 million barrels per day of crude oil (60% of total U.S. oil production). A decade ago, in December 2008, shale gas and tight oil accounted for only 16% of total U.S. gas production and about 12% of U.S. total crude oil production.[29]

138. On November 28, 2018, Interior announced the results of a formal USGS assessment of the oil and gas resource potential of two of the geologic units within the Greater Carlsbad region's Permian Basin, the Wolfcamp Shale and overlying Bone Spring Formation in the Delaware Basin. According to Interior, these two geologic units alone contain an estimated mean of 46.3 billion barrels of oil, 281 trillion cubic feet of natural gas, and 20 billion barrels of natural gas liquids.

139. According to this recent USGS assessment, the Wolfcamp Shale and Bone Spring Formation together constitute the largest unproven, technically recoverable oil and gas reserves in the world. These formations contain continuous, unconventional, or tight oil and gas resources that require unconventional drilling techniques, including horizontal drilling and multi-stage hydraulic fracturing, to extract.

140. As Dr. Jim Reilly, USGS Director explained, "In the 1980's, . . . the Permian and similar mature basins were not considered viable for producing large new recoverable resources.

[29] EIA adds new play production data to shale gas and tight oil reports (Feb. 15, 2019), https://www.eia.gov/todayinenergy/detail.php?id=38372# (last accessed May 30, 2019).

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Today, thanks to advances in technology, the Permian Basin continues to impress in terms of resource potential." Dr. Reilly further characterized the oil and gas resources of the Greater Carlsbad region as "crucial" to ensuring American "energy dominance."

141. Statistics from the U.S. Energy Information Agency show that oil and gas production in the Greater Carlsbad region has grown dramatically over the past ten years, and particularly in the last two years. Since 2010, oil production in the Permian Basin has grown from less than 1 million barrels per day to 4 million barrels per day, with production nearly doubling in the past two years alone. Tight oil production from the Wolfcamp Shale and Bone Spring Formation has risen from about 0.046 million barrels per day in January 2000, to 1.836 million barrels per day in January 2019, nearly a 40-fold increase in less than twenty years.

142. U.S. Energy Information Agency data shows that overall oil production in New Mexico has risen dramatically over the past decade**.** From an average daily production of less than 5.1 million barrels per month in 2009, production has skyrocketed to over 25 million barrels per month in January 2019.[30] Oil production in New Mexico has nearly doubled in just the past two years.

143. Nearly one third of the United States' crude oil now comes from the Permian Basin/Greater Carlsbad region, making it the largest shale-oil producing region in the country. And oil and gas production from this region continue to grow rapidly.[31]

144. BLM has played a critical role in facilitating the explosive growth in oil and gas

[30] EIA, *Petroleum & Other Liquids, Crude Oil Production*, https://www.eia.gov/dnav/pet/pet_crd_crpdn_adc_mbbl_m.htm.
[31] EIA, *This Week in Petroleum, Permian & Gulf of Mexico Regions Expected to Drive Continued Record-High U.S. Crude Oil Production Through 2020*, https://www.eia.gov/petroleum/weekly/archive/2019/190221/includes/analysis_print.php.

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production in New Mexico and the Greater Carlsbad region. Between 2009 and 2018, BLM issued leases covering over 450,000 acres of New Mexico public lands. Over 240,000 acres of leases were sold between 2015 and March 2019.

145. Between September 2017 and September 2018, the BLM lease sales challenged herein resulted in the selling off for oil and gas development 210 lease parcels covering more than 68,000 acres of federal public lands in the Pecos District. In December 2018 and March 2019, BLM further auctioned off nearly 42,000 acres of additional public land in this same area. Additional BLM lease sales are already planned for June 2019, September 2019, and November 2019, with BLM proposing the further sale of more than 4,400 new acres in the Pecos District.

146. In FY 2018, BLM approved 1,169 Applications for Permit to Drill (APDs) in the Pecos District, approximately 29% of all APDs approved nationwide. As of September 30, 2018, some 934 APDs remained pending in the Pecos District, 41% of all APDs pending nationwide.

147. The Trump Administration has touted the significant royalties generated by the lease sales, noting that the September 2018 Greater Carlsbad lease sale generated nearly a billion dollars, the largest dollar-value lease sale in the history of BLM's onshore oil and gas program.[32] But BLM has never attempted to perform a cost-benefit analysis of continued oil and gas leasing in the Greater Carlsbad region or otherwise taken a hard look into the significant costs associated with climate change, hazardous air pollution, water resources use and degradation, and other environmental impacts resulting from unconventional oil and gas development.

[32] BLM, *Energy Revolution Unleashed: Interior Shatters Previous Records with $1.1 Billion in 2018 Oil and Gas Lease Sales*, Feb. 6, 2019, https://www.blm.gov/press-release/energy-revolution-unleashed-interior-shatters-previous-records-11-billion-2018-oil-and.

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II. The Challenged BLM Final Agency Actions

A. September 7, 2017 Oil and Gas Lease Sale

148. On November 21, 2016, BLM released a list and map of 52 nominated parcels for inclusion in the September 2017 oil and gas lease sale.

149. On April 30, 2017, BLM released a "draft" EA and unsigned FONSI for public review and comment. The draft EA indicated that 65 parcels had been nominated for the September 2017 oil and gas lease sale, and included a "proposed action" that would lease 60 of those parcels, covering 15,731.9 acres.

150. On June 7, 2017, BLM released a lease sale notice, "final" EA, and unsigned FONSI, initiating a thirty-day administrative protest period for the September 2017 lease sale.

151. The final EA included a "preferred alternative" wherein 60 parcels, located in BLM's Pecos District and covering 15,731.9 acres, were included in the September 2017 lease sale. After parcel realignment, BLM identified 62 parcels covering an equivalent 15,731.9 acres in the agency's lease sale notice.

152. On July 6, 2017, Guardians timely filed an administrative protest of BLM's lease authorizations for the September 2017 lease sale, objecting to the inclusion of all 62 of the parcels in BLM's Pecos District Office.

153. On September 7, 2017, BLM held the competitive oil and gas lease sale at the agency's New Mexico State Office in Santa Fe, New Mexico. BLM posted the sale results the same day, indicating that 61 of the 62 offered parcels had been sold, totaling 15,331.91 acres.

154. On March 30, 2018, more than six months after all parcels were sold, BLM denied Guardians' Protest of the lease authorizations and issued its Decision Record and signed FONSI for the September 2017 lease sale.

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155. On March 30, 2018, BLM issued all 61 leases to Lessees.

B. BLM's December 7, 2017 Oil and Gas Lease Sale

156. On July 10, 2017, BLM released a list and map of 7 nominated parcels within the Carlsbad Field Office for inclusion in the December 2017 oil and gas lease sale.

157. On July 10, 2017, BLM released a "draft" EA and unsigned FONSI for public review and comment. The draft EA indicated that 7 parcels in the Carlsbad Field Office had been nominated for the December 2017 oil and gas lease sale, and included a "proposed action" that would lease 7 of those parcels, covering 2,104.15 acres.

158. On August 7, 2017, Guardians timely submitted comments to BLM on the draft EA for the December 2017 lease sale.

159. On September 7, 2017, BLM released a lease sale notice, "final" EA, and unsigned FONSI, initiating a thirty-day administrative protest period for the December 2017 lease sale.

160. The final EA included a "preferred alternative" wherein 7 parcels covering 2,104.15 acres in the Carlsbad Field Office were included in the December 2017 lease sale.

161. On October 6, 2017, Guardians timely filed an administrative protest of BLM's lease authorizations for the December 2017 sale, objecting to the inclusion of all 7 of the parcels in BLM's Pecos District.

162. On December 7, 2017, BLM held the competitive oil and gas lease sale at the agency's New Mexico State Office in Santa Fe, New Mexico. BLM posted the sale results the following day, indicating that all 7 of the offered parcels had been sold, totaling 2,104.15 acres.

163. On March 26, 2018, more than 3 months after all parcels were sold, BLM issued its Decision Record and signed FONSI for the December 2017 lease sale.

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164. On March 30, 2018, BLM denied Guardians' Protest of the December 2017 lease authorizations.

165. On March 30, 2018, BLM issued all 7 leases to Lessees.

C. BLM's September 2018 Oil and Gas Lease Sale

166. On April 3, 2018, BLM released a list of 197 nominated parcels within the Pecos District Office for inclusion in the September 2018 oil and gas lease sale.

167. On April 20, 2018, Guardians submitted "scoping comments" on BLM's proposal for the September 2018 oil and gas lease sale.

168. On July 23, 2018, BLM released a "final draft" EA and unsigned FONSI, but did not provide any opportunity for public comment on the draft EA. The draft EA indicated that 197 parcels in the Carlsbad Field Office had been nominated for the September 2018 oil and gas lease sale, and included a "proposed action" that would lease 173 of those parcels, covering 75,528 acres in the Pecos District, and an alternative action to lease 142 parcels and defer 31 parcels in light of significant risks to the City of Carlsbad's groundwater-dependent public water supply.

169. On July 23, 2018, BLM also released a lease sale notice, identifying 142 parcels proposed for sale within the Pecos District and initiating the ten-day protest period for the September 2018 lease sale.

170. On July 30, 2018, Guardians timely filed an administrative protest of BLM's lease authorizations for the September 2018 sale, objecting to the inclusion of all 142 of the parcels in the BLM's Pecos District.

171. On September 5-6, 2018, BLM held the competitive oil and gas lease sale at the agency's New Mexico State Office in Santa Fe, New Mexico. BLM posted the sale results on

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September 6, 2018, indicating that all 142 of the offered parcels had been sold, totaling 76,219.5 acres.

172. On October 22, 2018, more than a month after all parcels were sold, BLM denied Guardians' Protest of the lease authorizations, and issued its final EA and signed FONSI for the September 2018 lease sale.

173. On October 22, 2018, BLM issued all 142 leases to Lessees.

D. BLM's Promulgation of IM 2018-034

174. On January 31, 2018, BLM promulgated IM 2018-034, "Updating Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews," by memoranda from the Deputy Director, Policy and Programs, Exercising Authority of the BLM Director. IM 2018-034 overhauled the oil and gas leasing requirements established in IM 2010-117, affecting the substantive and procedural rights of Guardians', its members, and other member of the public interested in participating in BLM's oil and gas leasing process on public lands.

175. IM 2018-034 was issued without any prior public notice or opportunity for Guardians or other members of the public to provide comment on the significant changes established by IM 2018-034, which dramatically reduced public participation opportunities in BLM's Oil and Gas Leasing Program.

III. Environmental Impacts of the Lease Sales

A. Climate Impacts

176. BLM's purpose in issuing the 210 specific Lease Authorizations was explicitly to provide "opportunities for private individuals or companies to explore for and develop oil and gas resources on public lands. . . ." This private exploitation of public resources, however, will result in significant greenhouse gas emissions with profound implications for the global climate,

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significant degradation of air quality, particularly with respect to ozone pollution, the extraction and contamination of vast amounts of scarce groundwater, and the undermining of seismic stability in the region. The continued industrialization of public lands in the Greater Carlsbad region will further impact native wildlife and recreational opportunities.

1. Direct Impacts

177. BLM's environmental documents supporting the Lease Authorizations indicate that up to 2,001 new oil and gas wells could foreseeably be developed on the leased parcels.

178. While representing only a small fraction of the total emissions resulting from the Lease Authorizations, the direct emissions from the three lease sales are still significant. BLM estimates annual per well emissions ranging from 94 to 137.7 metric tons of CO2e. Thus, the September 2017, December 2017, and September 2018 lease sales are projected to result in direct wellhead emissions of 37,590 metric tons, 3,718 metric tons, and 151,324 metric tons per year, respectively.

179. A useful tool for evaluating the significance of these direct emissions is the well-established framework provided by the IWG's social cost of carbon tool. Simple calculations applying the SCC to GHG emissions from these lease sales offer a straightforward comparative basis for analyzing impacts, and identifying very significant costs. For example, applying the IWG central value of $42 per ton of CO_2 results in an annual social cost of carbon (just for direct wellhead emissions) of $1.58 million for the September 2017 lease sale; $156,156 for the December 2017 lease sale; and $6.36 million for the September 2018 lease sale, with projected costs ranging from $413,490 to $3.9 million; $40,898 to $390,390; and $1.7 million to $15.9 million, respectively.

180. Given an estimated twenty-year production period, direct well-head CO2e

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emissions total 751,800 metric tons for the September 2017 lease sale, 74,360 metric tons for December 2017 lease sale, and 3,026,480 metric tons for the September 2018 lease sale.

181. Given the substantial direct wellhead emissions, the median social cost of carbon for the total direct wellhead emissions over a 20-year production period from each of the lease sales is undoubtedly significant: $31.6 million for the September 2017 lease sale; $3.1 million for the December 2017 lease sale; and $127.1 million for the September 2018 lease sale. Social cost of carbon estimates for the lease sales range from $8.3 million to $78.9 million, $818,000 to $7.8 million, and $33.3 million to $317.8 million, respectively.

2. Indirect Impacts

182. BLM's environmental documents show that the three lease sales are projected to collectively produce some 446 million barrels of oil and 1.8 trillion cubic feet of natural gas. Over BLM's twenty year estimated production period, this equates to some 61,000 barrels of oil and 243 million cubic feet of natural gas produced *each day*.

183. The Leasing Authorizations are intended to facilitate the extraction and ultimate use of these fossil fuels. While the exact destinations of extracted oil and natural gas may not yet be known, it is reasonably foreseeable that the vast majority of oil produced from the leased parcels will ultimately be refined into gasoline and used as a transportation fuel. Similarly, it is foreseeable that most of the natural gas is likely to be combusted for heating or to produce electricity. BLM acknowledges that it is possible to make reasonable estimates of the downstream, indirect combustion-related emissions of oil and natural gas produced from the leased parcels.

184. As BLM further acknowledges, the indirect downstream emissions generate the vast bulk of climate impacts caused by oil and gas development, dwarfing the direct wellhead

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emissions. For oil, BLM estimates that direct well-head emissions constitute only about 8% of emissions, transportation to refineries is about 10%, with "fully 80%" of emissions coming from combustion of the refined product as a transportation fuel.

185. For the September 2017 lease sale, BLM estimates downstream combustion emissions of 57,970,392 metric tons; 6,185,867 metric tons for the December 2017 lease sale; and 225,099,779 metric tons for the September 2018 lease sale.

186. Applying the social cost of carbon tool to the downstream indirect emissions from the three lease sales, as estimated by BLM, reveals a staggering climate cost from the Leasing Authorizations. At $42 per ton, indirect emissions result in a median social cost of carbon of $2.5 billion for the September 2017 lease sale; $266 million for the December 2017 lease sale; and $13.1 billion for the September 2018 lease sale; with social cost estimates for the three lease sales ranging from $638 million to $6.1 billion; $68 million to $650 million; and $2.5 billion to $23.6 billion, respectively.

187. BLM completely fails to calculate or account for the environmental impacts of indirect emissions associated with the transportation of oil and gas to refineries, despite BLM recognizing that such transportation constitutes a significant portion of emissions, estimated at about 10% of total emissions from oil production.

3. Cumulative Impacts

a. Greenhouse Gas Pollution from BLM's Oil and Gas Management Program

188. BLM is responsible for the management of nearly 700 million acres of federal onshore subsurface minerals. As of 2018, BLM managed lands contained 38,147 individual oil and gas lease parcels, covering over 25.5 million acres of public lands, on which more than 96,000 active producible wells are drilled.

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189. NEPA's implementing regulations define a "program" as "a group of concerted actions to implement a specific policy or plan; systematic and connected agency decisions allocating agency resources to implement a specific statutory program or executive directive." 40 C.F.R. § 1508.18. BLM's oil and gas leasing activities fall within this definition of a program because they are "connected agency decisions allocating agency resources to implement" the MLA for the purpose of exploration or development of oil and natural gas resources. *Id*.

190. BLM expressly refers to its oil and gas leasing activities as a program. According to BLM's website, "BLM manages the Federal government's onshore oil and gas program with the goals of facilitating safe and responsible energy development while providing a fair return for the American taxpayer."

191. All of the leasing authorizations challenged herein are part of BLM's comprehensive Oil and Gas Leasing Program to implement the Mineral Leasing Act.

192. BLM's Oil and Gas Leasing Program already contributes vast amounts of GHGs into the atmosphere, posing a threat to climate, the natural environment, and public health. In a single year (using 2012 figures), GHG emissions from oil extracted from federal lands resulted in the release of an estimated 57 million metric tons of CO_2e.[33] That same year, GHG emissions from natural gas extracted from federal lands resulted in the release of an estimated 144 million tons of CO_2e pollution. Accordingly, in a single year BLM's Oil and Gas Leasing Program resulted in the release of more than 200 million tons of CO_2e pollution. This is the equivalent of annual greenhouse gas emissions from over 58 coal-fired power plants.

[33] Stratus Consulting, *supra* note 20, at 11.

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193. The ultimate downstream GHG emissions from fossil fuel extraction from federal lands and waters by private leaseholders accounts for approximately 21% of total U.S. GHG emissions and 24% of all energy-related GHG emissions, based on 2012 figures.[34]

194. In 2018, USGS also inventoried greenhouse gas emissions associated with federal coal and oil and gas production, revealing that fossil fuel production on federal public lands contributes to 23.7 % of all U.S. carbon dioxide emissions, or 1.279 billion metric tons.[35] Considering releases of methane and other greenhouse gases, federal fossil fuel production generates nearly 25% of all U.S. greenhouse gas emissions.

b. Greenhouse Gas Pollution from the Greater Carlsbad Region

195. The Leasing Authorizations threaten a continuing expansion of oil and gas development in the Permian Basin/Greater Carlsbad region, which has already undergone a dramatic boom in production over the past decade. While BLM's environmental analysis completely ignores any production in the region outside the individual parcels considered in each lease sale, understanding the broader context of the Leasing Authorizations requires the agency to grapple with the staggering production boom in the region.

196. As noted above in Section I.G above, statistics from the U.S. Energy Information Agency show explosive growth in oil and gas production in the Greater Carlsbad region over the past ten years, and particularly in the last two years. Oil production in the Permian Basin has more than quadrupled since 2010, with production nearly doubling in the past two years alone. Oil production in New Mexico has also expanded nearly five-fold over the past decade**.**

[34] *Id*. at 10.
[35] *See* M.D. Merrill, et al., USGS, *supra* note 28, at 1.

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197. Nearly one-third of the United States' crude oil now comes from the Permian Basin/Greater Carlsbad region, making it the largest shale-oil producing region in the country. Oil and gas production from this region continue to grow rapidly, and projections show the potential for continued growth given the large technically recoverable reserves identified in the region.

198. According to a recent USGS assessment, the Wolfcamp Shale and Bone Spring Formation together constitute the largest unproven, technically recoverable oil and gas reserves in the world. Tapping these fossil fuel resources, however, is fundamentally at odds with the civilizational imperative to avoid catastrophic climate change, as the carbon content of these recently-identified reserves – 19.9 billion tons of CO_2e from oil; 15.5 billion tons of CO_2e from natural gas; 5.2 billions tons of CO_2e from natural gas liquids; 40.6 bilion tons of CO_2e total – exceeds the total U.S. carbon budget needed to limit warming to an average of 1.5°C and potentially the total budget needed for a 2°C target. And these two formations represent just a fraction of total reserves in the Permian Basin/Greater Carlsbad region. At the median social cost of carbon ($42/ton), full extraction of these reserves would have a negative social cost of *1.7 trillion dollars*, with an estimated range of $447 billion to $4.3 trillion.

199. A recent report produced by Oil Change International confirmed the need to start quickly tapering fossil fuel production in order to reduce greenhouse gas emissions and meet scientifically-established climate targets. Despite not taking into account the USGS's brand-new assessment of the Wolfcamp Shale and Bone Spring Formation, the report still specifically highlighted the Permian Basin of New Mexico and Texas as the potential source of more than 50 billion metric tons of carbon emissions, which if unleashed, would undermine global climate objectives, at a social cost of *2.1 trillion dollars*, with a range of $550 billion to $5.3 trillion.

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200. Thus, the cumulative impacts of oil and gas development in the Permian Basin/Greater Carlsbad region have profound implications for the global climate and are, by any definition, highly significant.

201. Between September 2017 and September 2018, BLM sold off leases covering hundreds of parcels and more than 68,000 acres of federal public lands in the Pecos District for oil and gas development. BLM continues to sell off public lands in the Pecos District for oil and gas development without considering the cumulative impacts of these decisions. BLM sold off more than 41,000 acres in December 2018 and more than 1,000 additional acres in March 2019, all in the Pecos District. And BLM has already proposed sales of an additional 1,560 acres in June 201, and 2,848 acres in September 2019, and an additional sale is already scheduled for November 2019.

202. BLM never attempts to assess the cumulative impact of the three challenged lease sales together. However, by adding up direct wellhead emissions for the three lease sales, as estimated in BLM's separate EAs, a total of 3.9 million metric tons of CO_2e emitted over twenty years can be calculated. These emissions have a median social cost of carbon of $162 million, and a social cost ranging from $42.4 million to $404.5 million.

203. When BLM's calculations of downstream emissions for the three lease sales are taken together, end use combustion of the oil and gas extracted from the lease parcels would generate approximately 289 million metric tons of CO_2e. Over the twenty-year projected development period, this would add more than 14 million additional metric tons of CO_2e to the atmosphere each year, and measurably increase total U.S. greenhouse gas emissions.

204. Further connecting the dots for BLM based on the agency's own data, full development of the three challenged lease sales would increase emissions from the Permian

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Basin federal mineral estate by 48%, from 30.6 million metric tons/year to 45.2 million metric tons/year.

205. Even further, the carbon emissions generated from the challenged lease sales would take up as much as 1.2% of the entire U.S. carbon budget needed to limit warming to 1.5°C and 0.9% of total U.S. carbon budget for a 2°C target. Critically, this carbon budget is not an annual total, but a measure of the amount of greenhouse gas pollution that can *ever* be emitted while avoiding catastrophic climate change.

206. At the median $42/metric ton value for the social cost of carbon, the cumulative impacts of the carbon emissions from the three challenged lease sales alone total *$12.2 billion dollars*, with a range of $3.2 billion to $30.7 billion. And this figure does not account for significant indirect emissions from oil and gas transportation and refining activities.

207. BLM statistics demonstrate a flood of oil and gas drilling activity in the Greater Carlsbad region. In FY 2018, BLM approved 1,169 APDs in the Pecos District, approximately 29% of all APDs approved nationwide. As of September 30, 2018, some 934 APDs remained pending in the Pecos District, 41% of all APDs pending nationwide. BLM's 2014 Reasonably Foreseeable Development Scenario projects this to continue for years, estimating that 16,000 new oil and gas wells will be drilled in the area over the next 20 years. BLM never assessed the cumulative impacts of this ongoing and reasonably foreseeable future development before issuing the Leasing Authorizations.

208. Based on BLM estimates for carbon emission factors for downstream combustion, the current 4 million barrel per day oil production rate of the Permian Basin is coming at a cost of 1.72 million tons of CO_2e per day, and the 13 billion cubic feet per day of gas production is resulting in 715,000 tons of CO_2e emitted per day. Thus, oil and gas production in the Permian is

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spewing out 2.4 million tons of CO_2e each day. At this current rate, Permian oil and gas production in 2019 will result in some 889 million tons of carbon pollution being contributed to the atmosphere.

209. In 2019 alone, oil and gas production in the Permian Basin/Greater Carlsbad region will thus use up between 1.6% and 3.5% of the *total* remaining U.S. carbon budget needed to limit warming to 1.5°C, and between 0.7% and 2.6% of the total U.S. budget for a 2°C target. Again, this is not an annual budget, but an estimate of the *total* future carbon emissions that can *ever* be emitted to avoid the worst impacts of the climate crisis.

210. Further, based on current production rates, Permian Basin/Greater Carlsbad regional oil and gas production in 2019 will come at an *annual* median social cost of carbon of more *than $37 billion dollars,* with a range from $9.8 billion to $93 billion in costs each year. And actual social costs are likely to exceed this staggering figure, as Permian production continues to grow rapidly.

211. By any measure, the cumulative greenhouse gas emissions and climate change impacts of oil and gas production in the Greater Carlsbad region/Permian Basin are incredibly significant.

212. Despite the significant costs imposed by rapidly expanding oil and gas production in the Greater Carlsbad region in the face of the climate crisis, BLM continues to offer public lands for sale as fast as possible, without considering the cumulative implications of its oil and gas leasing program on the global climate. BLM's actions pose a grave threat to the stability of the global climate and the health and welfare of all Americans.

B. Fracking Impacts

213. Hydraulic fracturing, or "fracking," is an oil and gas drilling "stimulation"

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technique involving the high-pressure injection of large quantities of water, proppants (typically sand), and chemical additives into the wellbore to fracture the targeted geologic formations to enhance the release of oil and natural gas. Some variation of oil and gas stimulation has been used in the Greater Carlsbad region since the 1950s. However, these early stimulation techniques are vastly different from the type of large-volume multi-stage fracking techniques currently employed. Neither the current Carlsbad RMP/EIS (adopted in 1988, amended in 1997) nor the Roswell RMP/EIS (adopted in 1997) analyzes the significant impacts posed by multi-stage hydraulic fracturing and horizontal drilling.

214. Over the last 15 years, advances in horizontal drilling technology combined with multi-stage and multi-zone fracking have enabled energy development that previously was uneconomic, including in the Greater Carlsbad region. Specifically, improvements and innovations in horizontal drilling technology and multi-lateral hydraulic fracturing have enhanced the economics of developing the Greater Carlsbad region's Permian Basin tight oil deposits.

215. Hydraulic fracturing of horizontal shale wells is generally performed in stages. The well is first drilled vertically down to the targeted shale bed or other tight oil deposit. From there, the drill hole is curved so that the trajectory of the well becomes horizontal. The well is then drilled horizontally for up to 2 miles or more. During the multi-stage fracking process, a series of explosive charges are set through the producing interval to perforate the production liner and casing to create small fractures in the targeted formation. A fracking fluid mixture is then injected into the formation, at high pressure, to create cracks or fractures. The fluids open or enlarge fractures that typically extend several hundred feet, but can extend as much as 2,000 feet from the well bore.

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216. Horizontal drilling and multi-stage hydraulic fracturing can have significant environmental impacts that differ in both magnitude and type from conventional oil and gas drilling techniques.

1. Air Quality

217. Oil and gas development and production, particularly when horizontal drilling and multi-stage fracking are involved, release significant amounts of nitrogen oxides ("NOx"), as well as volatile organic compounds ("VOCs") and other Hazardous Air Pollutants ("HAPs"), which contribute to air pollution. Horizontally-drilled wells emit over 250 percent more air pollutants than vertical wells. Each horizontal well produces 11.88 more tons of VOCs and 1.13 more tons of HAPs than each vertical well.

218. NOx and VOCs react to form ozone, a pollutant with serious health risks. According to the EPA, the oil and gas industry is the largest industrial source of VOC emissions, which contribute significantly to the formation of ground-level ozone. Oil and gas production also releases air toxics such as benzene, ethylbenzene, and n-hexane, which are "pollutants known, or suspected of causing cancer and other serious health effects." The EPA reports that the oil and gas industry "emits 2.2 million tons of VOCs, 130,000 tons of air toxics, and 16 million tons of greenhouse gases (methane) each year (40% of all methane emission in the U.S.). The industry is one of the largest sources of VOCs and sulfur dioxide emissions in the United States."

219. Exposure to ozone is a serious concern as it can cause or exacerbate respiratory health problems, including shortness of breath, asthma, chest pain and coughing, decreased lung function and even long-term lung damage, all of which can contribute to premature deaths. Ozone levels in the Greater Carlsbad region already threaten human health, and BLM's Leasing

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Authorizations will only exacerbate this existing problem. In recent years, the Greater Carlsbad region has seen elevated monitored levels for the 8-hour ozone National Ambient Air Quality Standard ("NAAQS"). According to data from the EPA,[36] Eddy and Lea Counties and Carlsbad Caverns National Park each experienced a significant number of ozone exceedances in 2017 and 2018.

220. EPA data now indicates that both air quality monitors in Eddy County (350153001, 350151005) are in an undeclared state of non-attainment with the NAAQS for ozone, as the three-year averages of the annual fourth-highest maximum daily ozone concentrations currently exceeds 70 ppb at each of these sites, based on 2016, 2017, and 2018 data.

221. EPA monitoring data for Lea County (350250008) currently reflects a three-year average of the annual fourth-highest maximum daily ozone concentrations of 70 ppb exactly, just barely meeting the NAAQS standard. But with the fourth highest daily maximum concentration in 2018 substantially exceeding 70 ppb (76 ppb), if air quality conditions do not improve, much less worsen (as is likely), then Lea County will soon join Eddy County in an undeclared state of non-attainment.

222. The Carlsbad Caverns National Park Monitor[37] is also now regularly exceeding the 70 ppb 8-hour ozone NAAQS, recording over 60 exceedances in 2018. In fact, based on the Park Service's own data for 2016, 2017, and 2018, the National Park is currently in an

[36] U.S. EPA, Outdoor Air Quality Data, Download Daily Data, https://www.epa.gov/outdoor-air-quality-data/download-daily-data (last accessed Feb. 22, 2019).
[37] Ozone data for Carlsbad Caverns National Park was obtained from: National Park Service, Access to Gaseous Pollutant and Meteorolgoical Data: https://ard-request.air-resource.com/monhistory.aspx.

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undeclared state of non-attainment with the 8-hour ozone NAAQS, based on the three-year average of the annual fourth-highest maximum daily ozone concentrations, which now exceeds 70 ppb.

223. BLM acknowledges that oil and gas development causes air quality problems, including contributing to ozone pollution. But BLM fails to quantify or otherwise assess the significance of ozone pollution generated from oil and gas development on the leased parcels, concluding without any scientific support that "[t]he additional NO2 and VOCs emitted from any oil and gas development on these leases are likely too small to have a significant effect on the overall ozone levels of the area." BLM fails to place the individual lease sales in context of the regional boom in oil and gas development and production and never considers the cumulative impacts of the 210 Leasing Authorizations challenged herein in combination with past, present, and future oil and gas development in the area.

224. BLM's failure to take a hard look at ozone pollution is particularly problematic given the agency's recent projections that both the Carlsbad Caverns and Carlsbad in-town ozone monitors will exceed ozone standards in the near future. Carlsbad RMP-DEIS at 4-258. In fact, this projection has already come true. Thus, there is no room for growth in emissions that contribute to these harmful levels of ozone pollution in the Greater Carlsbad region, in particular NO_X and VOCs. Any increase in emissions of these ozone precursors will exacerbate the negative health effects from already high levels of ozone in the region. The expansion of oil and gas development in the Pecos District Office has the potential to significantly add to emissions of NO_X and VOCs, exacerbating the region's existing ozone problem.

225. Oil and gas development using horizontal drilling and multi-stage fracking can also affect the area's viewshed in a number of ways. Ozone is also the main component of smog,

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and development of the 210 challenged leases using horizontal drilling and multi-stage fracking will result in significant visibility impacts to the general area, as well as Class I areas such as the adjacent Carlsbad Caverns National Park. Gas flares from development of up to 2,000 new wells on the 210 leases will create light pollution which, when combined with smog, will interfere with the unobstructed viewshed and stargazing in Class I areas such as the adjacent Carlsbad Caverns National Park.

2. Water Resources Impacts

226. Fracking has been documented to cause contamination of groundwater aquifers and requires huge amounts of water, a significant concern in the arid Southwest.

227. In the first several days to weeks after the multi-stage fracking process, the well pressure is released and a portion of the fracking fluid—known as "flowback"—returns to the surface of the wellbore. Over longer time periods, water naturally present in the targeted formation—known as "produced water"—continues to flow through the well to the surface. The flowback and produced water typically contain both the injected chemicals and naturally occurring contaminants such as brines, heavy metals, radionuclides, and hydrocarbons. Very small quantities of some toxic fracking chemicals, such as benzene, are capable of contaminating millions of gallons of water.

228. Fracking fluid is a conglomeration of various chemicals and compounds, many of which are highly toxic. EPA has noted that a 3 million gallon fracturing operation generally uses 15,000 to 60,000 gallons of chemical additives. Many of these fracking fluid chemicals are known to be toxic to humans and wildlife, and several are known to cause cancer. Toxic substances used in fracking include petroleum distillates such as kerosene and diesel fuel (which contain benzene, ethylbenzene, toluene, xylene, naphthalene and other chemicals); polycyclic

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aromatic hydrocarbons; methanol; formaldehyde; ethylene glycol; glycol ethers; hydrochloric acid; and sodium hydroxide.

229. Given the use of such chemicals and their presence in flowback and produced water, the contamination of domestic and agricultural water supplies from multi-stage hydraulic fracturing is a serious risk. Moreover, if the wellbore is not properly sealed, cased, or its integrity is otherwise compromised, chemicals and other toxic substances can escape as they move through the well. The fracking fluid can also migrate underground, through natural and induced fractures, and lead to contamination of groundwater. Active and abandoned wells can also serve as pathways for the migration of contaminants into water sources. Spills of fracking fluids including the flowback can occur on the surface during storage, transportation and/or disposal.

230. Reporting from New Mexico has acknowledged a proliferation of "frack hits," or "downhole communication," where new horizontal drilling for oil is communicating with both historic and active vertical wells. This is a significant development that could result in well blowouts, contamination of resources, and conflict over who is responsible for liabilities and costs of such impacts.

231. Fracking has been well documented to cause groundwater contamination, from Wyoming to Pennsylvania. But "experts say that nowhere is that risk greater than in southeast New Mexico." As a recent Assistant Commissioner in the New Mexico State Land Office, which manages nearly 2 million acres of state land for energy production, stated, "Conditions here [in

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New Mexico] are unique…. The volumes of water the industry uses are so prolific. The disposal problems are more pronounced. The potential for something to go wrong is higher."[38]

232. Many of the challenged leases in southeastern New Mexico are located in karst areas, which is a topography generally formed by the erosion of limestone or gypsum by dissolution, which produces underground drainage systems with fissures, sinkholes, and caves. Due to the highly porous nature of karst formations, there is a heightened risk of groundwater contamination in karst areas.

233. A dye tracer study conducted by a BLM scientist in the Carlsbad Field Office found "positive connections between the oil and gas drilling operations and several critical water supplies" in the area.[39] Tracing dyes mixed into drilling fluids were later detected in area wells and springs, providing clear evidence of a hydrologic connection between drilling operations and water supplies and indicating that "failures in the production casing and cementing may also allow hydrocarbons to enter the aquifers." This BLM study refutes BLM's continued assertion that proper construction practices, drilling practices, and BMPs can eliminate significant adverse impacts to area aquifers. To the contrary, BLM's own scientists have concluded that: "The initial results are conclusive that the drilling fluids do enter the aquifers."

234. New Mexico state records document tens of thousands of spills in the Greater Carlsbad region from the oil and gas industry, including releases of oil and produced water, and show hundreds of instances of oil and gas operations polluting groundwater, the source of

[38] Keith Schneider, New Mexico's Oil Boom is Raising a Lot of Questions about Water, Los Angeles Times (Mar. 26, 2018), available at: https://www.abqjournal.com/1150794/heres-why-new-mexicos-oil-boom-is-raising-a-lot-of-questions-about-water.html.

[39] James Goodbar, Bureau of Land Mgmt., Dye Tracing Oil and Gas Drilling Fluid Migration Through Karst Aquifers: A Pilot Study to Determine Potential Impacts to Critical Groundwater Supplies in Southeast New Mexico, USA.

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drinking water for approximately 90% of the state's residents, and the vast majority of people living in the Greater Carlsbad region.

235. Groundwater contamination can also result from the subsurface injection of produced water, the predominant method for wastewater disposal from oil and gas development in the Greater Carlsbad region. The EPA recommends strict limitations on injection pressures for disposal wells "to prevent fracturing of the confining zone and possible contamination of underground sources of drinking water," suggesting a serious risk that water back pressures may cause a release of produced and flowback water into the water-bearing strata.

236. EPA's National Underground Injection Control Inventory for 2016 identifies 951 Class II disposal wells, and 3,420 Class II recovery wells in New Mexico, not including tribal lands. There are reportedly more than 720 active disposal wells in New Mexico's Greater Carlsbad region. BLM has never assessed the cumulative impacts and risks of these disposal wells on New Mexico's water resources and environment.

237. In addition to the significant risk of groundwater contamination from development of the challenged leases, there is also a significant risk of drawdown of groundwater aquifer levels because horizontal drilling and multi-stage fracturing requires high volumes of water. Groundwater drawdown could significantly impact the land, wildlife, livestock, and human communities in and around the challenged leases. This court has previously recognized that "[i]t can take five to ten times more water to frack a directionally drilled well than a vertical well." *Diné Citizens Against Ruining Our Env't v. Jewell*, No. CIV 15-0209 JB/SCY, 2015 WL 4997207, at *11 (D.N.M. Aug. 14, 2015), aff'd, 839 F.3d 1276 (10th Cir. 2016).

238. BLM acknowledges that oil and gas development poses a risk of contaminating

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the Capitan Aquifer that supplies the City of Carlsbad and surrounding ranches with fresh water, but concludes – in reliance on the 2018 Draft RMP EIS – that "proper construction practices, drilling practices, and BMPs" will prevent "significant adverse impact to groundwater aquifers." In other words, BLM assumes that drilling will be "properly implemented" when each of up to 2,000 new oil and gas wells are drilled on the 210 leased parcels. BLM completely ignores substantial evidence in the record showing that oil and gas drilling is not always "properly implemented" and aquifer contamination from oil and gas drilling is already occurring in the Greater Carlsbad region. The agency fails to take a hard look at the significant risk of spills, blowouts, and other accidents leading to contamination of vital water resources.

239. Further, overdrafting groundwater not only threatens the sustainability of the primary water supply for homes, businesses, and agricultural users in the Greater Carlsbad region, but threatens the stability of the land itself. Land subsidence has been frequently documented as groundwater has been pumped out from underlying aquifers. BLM fails to acknowledge the risk that continued oil and gas development in the Greater Carlsbad region will lead to land subsidence caused by excessive groundwater pumping needed to meet the demands of multi-stage hydraulic fracturing and horizontal drilling technologies.

3. Other Impacts of Oil and Gas Development and Fracking

240. Environmental impacts for horizontal drilling and multi-stage fracking differ in both type and magnitude from those associated with conventional, vertical drilling practices discussed in BLM's planning documents. For example, horizontal wells have more than double the surface impact of vertical wells (5.2 acres vs. 2 acres). There are increased noise impacts from a horizontally-drilled well because both drilling and multi-stage fracking treatments take longer to complete.

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241. Horizontal drilling and multi-stage fracking also requires the development of new roads, gathering pipelines, and other infrastructure. Moreover, each well typically requires thousands of truck trips to transport the water, nitrogen, and chemicals necessary for well completion and subsequent disposal of flowback and produced water, significantly higher than what is required to support traditional drilling practices.

242. Apocalyptically, hydraulic fracturing and underground wastewater injection have even been well-documented as causing earthquakes, including in areas not previously seismically active prior to oil and gas development. In the Permian Basin, USGS recently documented the frequency of earthquakes measuring at least 2.5 on the Richter scale as having tripled in just one year. Since 1999, more than two dozen earthquakes have been recorded in the oil and gas producing area northwest of Carlsbad within the Carlsbad Field Office, including in areas leased as part of the challenged lease sales. The Texas Railroad Commission (which governs oil and gas development in Texas) is currently considering new regulations on wastewater injection to respond to this increased seismic activity in the Greater Carlsbad region/Permian Basin.

243. A 2018 study by researchers Southern Methodist University indicated that a large swath of the Permian Basin is "heaving and sinking," likely as a result of decades of oil and gas production. "The ground movement we're seeing is not normal," stated SMU geophysicist Zhong Lu, a global expert in satellite radar imagery analysis. "These hazards represent a danger to residents, roads, railroads, levees, dams, and oil and gas pipelines, as well as potential pollution of groundwater." Co-author Jin-Woo Kim, a research scientist in the SMU Department of Earth Sciences, found the region to be "punctured like a pin cushion with oil wells and

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injection wells since the 1940's," and he attributed the ground movement to oil and gas activity.[40]

244. Dissolution of underground salt layers by the oil and gas industry for brine production has also resulted in the formation of massive hollowed out caverns which have now collapsed into "giant desert craters" northeast of Carlsbad. A new cavern has recently been identified in the City of Carlsbad, underlying several businesses and a major highway. The City of Carlsbad has agreed to spend $40 million just to study how to prevent the collapse of this cavern, which – in the absence of expensive efforts with an unknown potential for success – is expected to collapse in the next several years.

IV. Inadequacy of BLM's Review

A. BLM's Tiering to Out-of-Date Planning Documents

245. BLM completed the current RMP for the Carlsbad Field Office in 1988, and amended in 1997. The BLM is currently in the process of preparing a new Carlsbad RMP/EIS. Indeed, the BLM released a draft RMP and EIS on August 3, 2018.

246. The draft Carlsbad RMP and EIS update the management of lands within the Carlsbad Field Office. The Carlsbad Field Office includes all of Eddy and Lea Counties and a portion of Chaves County. 173 or 82% of the challenged Leasing Authorizations will be subject to the new Carlsbad RMP and DEIS.

247. The impacts of oil and gas development on the numerous leased parcels in the

[40] Carolyn Davis, *Permian's Shifting, Sinking Ground 'Not Normal,' Say SMU Researchers, Natural Gas Intelligence* (Mar. 26, 2018), available at: https://www.naturalgasintel.com/articles/113821-permians-shifting-sinking-ground-not-normal-say-smu-researchers.

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Carlsbad Field Office are potentially significant and unanalyzed in the existing RMP-EIS. BLM has failed to analyze the impacts from the use of hydraulic fracturing coupled with horizontal drilling, a more intense form of oil and gas development. Thus, BLM is failing to account for potentially significant impacts in its current RMP-EIS. Indeed, BLM's Analysis of the Management Situation ("AMS")[41] for the existing RMP-EIS essentially admits that this is one of the reasons for updating the document. *See* AMS at 2-100 ("Since 2006, the percentage of wells drilled horizontally has increased substantially."). Data from the Energy Information Administration ("EIA") supports this conclusion.

248. Similarly, the "current" 1997 RMP/EIS for the Roswell Field Office is more than 20 years old. As discussed above, oil and gas extraction techniques have drastically changed since 1997 and with this change comes increased, potentially significant impacts. The current RMP-EIS did not take these changes into account.

249. BLM's recent reasonably foreseeable development scenario process further highlights the unexpectedly rapid pace of development in the Greater Carlsbad region, fueled by new unconventional drilling techniques. After completing a new scenario in 2012, BLM soon realized that it was already outdated and failed to accurately predict the oil and gas development that was occurring. So BLM contracted to have the scenario updated just two years later. This BLM report explained, "[d]ue to the dramatic growth in development since 2010 (specifically the Bone Spring) the initial RFD quickly became outdated; missing areas of development that were not active or predicted."

250. According to BLM's Analysis of the Management Situation for the Bureau of

[41] The AMS for the Carlsbad Field Office is available online at: https://eplanning.blm.gov/epl-front-office/projects/lup/64444/77501/86227/AMS_Compiled.pdf.

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Land Management Carlsbad Field Office, "[t]he 1988 Carlsbad RMP and subsequent amendments did not make decisions for [greenhouse gases] (BLM 1988)." The 1997 Roswell RMP/EIS also did not address climate change or calculate direct, indirect, and cumulative climate impacts.

251. Furthermore, since the Carlsbad and Roswell RMPs were last updated, air quality in the area has rapidly deteriorated, largely as a result of the dramatic increase in wells and fracking in the area. EPA has also promulgated stricter standards for ozone, and monitors in the Greater Carlsbad area have been regularly exceeding this standard in recent years.

252. Unless this court overturns the challenged Lease Authorizations, BLM will not be able to consider any alternative that forbids oil and gas development on these parcels even if the agency were to determine, based on subsequent NEPA analysis at the APD stage, such closure is necessary to protect important environmental values, such as regional air quality and water resources or the global climate. Once a lease is sold, "[a] lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold," subject to stipulations or reasonable measures "consistent with lease rights." 43 C.F.R. § 3101.1-2. Mitigation measures or conditions of approval cannot take away lease rights or prevent oil and gas extraction.

253. As noted above, the BLM leased 173 parcels covering more than 54,000 acres in the Carlsbad Field Office between September 2017 and September 2018. *See* Table A. The challenged lease sales have collectively removed a significant area of land from consideration for potential closure to oil and gas development, limiting the alternatives available to BLM in the ongoing RMP planning process.

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254. By failing to perform the necessary analysis at the leasing stage, BLM presupposes that any site-specific impacts from oil and gas development can be mitigated at the APD stage to prevent significant impacts before even knowing the type and extent of those site-specific impacts.

255. BLM also arbitrarily presupposes that the benefits associated with oil and gas development outweigh the risks to natural resources such as wildlife habitat, and air and water quality. In making this unsupported and predetermined conclusion, BLM has made an irreversible and irretrievable commitment of resources that benefits oil and gas leasing and drilling at the expense of other multiple use resources.

B. BLM's Inadequate Analysis of Climate Change Impacts

256. BLM failed to take a hard look at the direct, indirect, and cumulative impacts of climate change.

257. For direct impacts of the Leasing Authorizations, BLM merely calculated direct wellhead emissions based on an estimate of total wells to be developed on the leased parcels. BLM then compared these annual emissions estimates to total direct oil and gas wellhead emissions at a national, state-wide, and regional level. Besides cursory statements that the impacts would be "very small" in comparison to total emissions levels, BLM failed to assess the significance of these emissions, despite the availability of scientifically-validated tools to do so. For example, BLM failed to utilize the available social cost of carbon tool to inform its analysis, nor did BLM consider any information regarding carbon budgeting needed to avert the worst impacts of climate change.

258. For indirect impacts, BLM provided calculations of indirect emissions of downstream combustion of oil and gas extracted from the leased parcels. But BLM provided

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absolutely no context for these projected emissions, leaving decision-makers without the information needed to assess whether such emissions were significant. As described above, when social cost of carbon and carbon budgeting tools are applied, the significance of these downstream emissions is undeniable. BLM, however, refused to use these available tools – or any other methodology – to actually assess the significance of downstream emissions in the context of the current climate crisis. BLM further provided absolutely no quantification or assessment of the emissions associated with transporting and refining oil and gas produced from the leased parcels, despite acknowledging that about 10% of emissions from oil production come from these indirect activities.

259. BLM provided no quantification or assessment of the cumulative impacts of the challenged actions in conjunction with other past, present, and future oil and gas development. Specifically, BLM failed to consider the cumulative impacts of the Leasing Authorizations in light of the rapid expansion of oil and gas production in the Greater Carlsbad region/Permian Basin and the critical need to limit future production from the region in order to avert global climate catastrophe.

260. Nor did BLM consider the agency's instrumental role in encouraging and facilitating oil and gas development on public lands, including the 14.5 million acres of lands leased by BLM for oil and gas development between 2008 and 2017.

261. Instead of preparing the required cumulative effects assessment for each of the lease sales, BLM relied wholly on cursory, high-level analysis of the general issue of global climate change as contained in the agency's Air Resources Technical Report (USDI BLM, 2017), and other reports documenting the science of global climate change, such as IPCC reports and the National Climate Assessment. These reports do not, however, substitute for a cumulative

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effects assessment that actually considers and places into context the specific agency actions being evaluated, the 210 Leasing Authorizations at issue here.

262. As BLM itself noted in the introduction to the Technical Report:

> The purpose of this document is to summarize the technical information on air quality and climate change relative to all Environmental Assessment (EAs) for Application for Permit to Drill (APD) and Lease sales. The intent of this document is to collect and present the data and information needed for air quality and climate change analysis pertaining to oil and gas development.

263. Thus, the Technical Report "summarize[s] technical information on air quality and climate change" and includes data and information "needed for air quality and climate change analysis pertaining to oil and gas development," such as per-well emissions estimates and emissions factors for downstream combustion. But the Technical Report does not actually provide such required analysis for specific agency actions, which the report authors assumed would later be provided by BLM during the environmental review for individual lease sales.

264. Instead, the Technical Report simply provides a quick look at the overall state of U.S. emissions, which distressingly continue to increase despite the global imperative of a rapid reduction in carbon emissions.

265. The Technical Report does not provide the specific context needed to assess the significance of cumulative impacts associated with increased greenhouse gas emissions from new oil and gas development and production in the Greater Carlsbad region/Permian Basin. Nor can general IPCC reports or the National Climate Assessment substitute for the necessary cumulative impacts assessment for the Leasing Authorizations, which must take a hard look at the emissions from the individual lease sales in conjunction with other oil and gas development in the Pecos District, in the Greater Carlsbad region/Permian Basin, and on BLM lands throughout the Rocky Mountain West.

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266. For the September and December 2017 lease sales, BLM simply totaled up the potential direct well-head and (incomplete) indirect downstream combustion emissions from each of *the individual lease sales in isolation* and incorrectly considered these figures to constitute a cumulative effects assessment. In other words, BLM separately looked at the direct and indirect emissions associated with each individual lease sale, but completely failed to consider the cumulative climate impacts of these emissions in conjunction with *any other* federal or non-federal activities, including BLM's other recent (and planned) oil and gas lease sales in the Pecos District and throughout the Rocky Mountain West, and the booming oil and gas production on private and state lands in the Greater Carlsbad region/Permian Basin.

267. The EA for the September 2018 lease sale contains no assessment of the cumulative impacts of the lease sales in conjunction with any other oil and gas development activities aside from the individual lease sale at issue in each EA, but instead simply note that "[t]he cumulative impacts of GHG emissions and their relationship to climate change are evaluated at the national and global levels in the Air Resources Technical Report (USDI BLM, 2017)." Critically, however, the Air Resources Technical Report does not consider the emissions impacts of the Leasing Authorizations, other BLM leasing activities, or the ongoing fracking boom in the Greater Carlsbad region/Permian Basin. This general report does not make up for BLM's complete lack of an actual cumulative impacts assessment of the Leasing Authorizations.

268. Notably, BLM held the three challenged lease sales in the Pecos District within a span of 13 months between September 2017 and September 2018. Yet none of the Leasing Authorizations for these lease sales included any acknowledgment, much less assessment, of the impacts of the other lease sales. Thus, for example, the EA for the September 2018 lease sale completely fails to consider the two recent prior sales in the Pecos District.

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269. Nor did BLM consider, in any of the EAs, the cumulative impacts of future pending BLM lease sales in the Pecos District or elsewhere. In December 2018 and March 2019, BLM auctioned off nearly 42,000 acres of additional public land in the Pecos District. Additional BLM lease sales are already planned for June 2019, September 2019, and November 2019, with BLM proposing the further sale of more than 4,400 new acres in the Pecos District.

270. NEPA requires BLM to consider the cumulative impacts of the Leasing Authorizations in conjunction with ongoing and planned oil and gas development throughout the Greater Carlsbad region, past, present, and future oil and gas development on BLM lands throughout the Western United States. At a bare minimum, however, BLM should have assessed the cumulative impacts of the individual Leasing Authorizations added to the climate impacts of BLM's ongoing efforts to expand oil and gas production in the Pecos District, as such information was readily available in BLM's own files.

C. BLM's Inadequate Analysis of Fracking Impacts

271. As with climate change, BLM failed to take a hard look or fully assess the significance of the direct and indirect impacts of unconventional oil and gas production via multi-stage hydraulic fracturing and horizontal drilling on air quality, water resources, and other environmental factors. Nor did BLM consider the cumulative impacts of the individual lease sales in conjunction with any other past, present, or future actions, including the other Leasing Authorizations.

1. Air Quality

272. BLM acknowledges in at least one of its EAs that "[e]xploration and production would contribute to incremental increases in overall air quality emissions associated with oil and gas exploration and production into the atmosphere." Further, the agency recognizes "[t]he most

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significant criteria pollutants emitted by oil and gas development and production are VOCs, particulate matter and NO_2," with VOCs and NO_2 both "contribut[ing] to the formation of ozone, which is the pollutant of most concern to the PDO." However, without scientific assessment or support, BLM cursorily concluded: "The additional NO_2 and VOCs emitted from any oil and gas development on these leases are likely too small to have a significant effect on the overall ozone levels of the area." Yet BLM never quantifies these emissions or provides air quality modeling to support this conclusion.

273. In its EA for the September 2018 lease sale, BLM states, without support:

> The potential amounts of ozone precursor emissions of NOx and VOCs from the proposed lease sale are not expected to impact the current design value for ozone in Chaves, Eddy and Lea counties under the Proposed Action Alternative however more information at the development stage will provide more information to better estimate air emissions from a specific project.

Critically, however, BLM provides *no quantification whatsoever* of potential NOx and VOC emissions from the proposed lease sales, so the agency has no factual basis for concluding that such unknown amounts should not affect regional air quality. BLM repeats this error for each of the Leasing Authorizations.

274. BLM's dismissal of air quality concerns is particularly problematic given the elevated ozone levels already found in the Greater Carlsbad region. As noted above, EPA data from 2018 shows numerous ozone exceedances for all of the area's air quality monitoring sites. Based on the three-year 2016–2018 average of the fourth-highest daily maximum, Eddy County and Carlsbad Caverns National Park are now exceeding the ozone NAAQS, and Lea County will likely soon follow.

275. Ozone levels in the Greater Carlsbad region have been worsening for more than a decade, despite substantial improvements in ozone levels in most other areas. BLM's Technical

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Report states that "national ozone concentrations in rural areas have decreased approximately 11% from 2000 to 2015" yet "[i]n Carlsbad, NM, removing the effects of weather, ozone concentrations increased 8% between 2000 and 2012." Ozone levels have continued to worsen since 2012 as the fracking boom has spread throughout the Greater Carlsbad region.

276. In the absence of any modeling or other scientific analysis of the impacts of increasing ozone emissions in this already-stressed area, BLM acted arbitrarily and capriciously by concluding that the individual Leasing Authorizations would not have significant direct and indirect effects on regional air quality, particularly with respect to ozone.

277. BLM also failed to consider any cumulative impacts on ozone levels from the Lease Authorizations, failing to quantify emissions of ozone precursors from the individual lease sales or from other past, present, and future oil and gas development in the region. With many adjacent and nearby parcels among the three lease sales in 2017 and 2018, BLM has no excuse for failing to acknowledge and quantify the cumulative emissions from these lease sales, which occurred in a narrow 13-month period in BLM's Pecos District.

278. BLM also fails to assess the significance of allowing future oil and gas development in the Pecos District, thereby increasing emissions of critical ozone precursors. In light of the fact that regional air quality is already at, or exceeding EPA's health-based NAAQS for ozone, any increase in emissions of ozone precursors, like VOCs and NOx, is highly significant.

2. Water Resources

279. Oil and gas development, particularly unconventional techniques using multi-stage hydraulic fracturing and horizontal drilling, poses well-documented risks to water quality. These risks are heightened by the geologic formations and aquifers underlying the Greater

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Carlsbad region. In particular, the karst geology presents extreme water quality risks that BLM never fully considered.

280. Karst formations in the Greater Carlsbad region are generally formed by the dissolution of limestone or gypsum, producing highly porous rock characterized by cavernous porosity and conduit flow. Drilling through karst formations can lead to blown wells and bit drops, which risk the contamination of aquifers with fracking fluid or oil and gas constituents. Groundwater contamination in karst aquifers can spread rapidly through preferential flow paths, which include large caves and caverns in the Greater Carlsbad region.

281. A BLM scientist in the Carlsbad Field Office used a dye tracer study to document "positive connections between the oil and gas drilling operations and several critical water supplies" in the area. This BLM study refutes BLM's assertion that proper construction practices, drilling practices, and BMPs can reduce potential adverse impacts to area aquifers below a level of potential significance. To the contrary, BLM's own scientists have concluded that: "The initial results are conclusive that the drilling fluids *do* enter the aquifers." (emphasis added).

282. In recognition of the significant risks posed by oil and gas development to the Capitan Aquifer, which serves as the City of Carlsbad's public water supply, BLM deferred certain parcels from the September 2018 lease sale in light of the documented caves and karst features in the area. Yet in other areas with documented karst features, BLM has proceeded with oil and gas leasing activities.

283. As part of the September 2018 lease sale, BLM issued leases on 47 parcels totaling 21,083.96 acres identified as having either medium or high cave potential. As the sole mitigation for impacts to karst topographic features and aquifers, BLM relies on a lease

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stipulation that simply prohibits drilling within "200 meters of *known* cave entrances, passages or aspects of significant caves, or significant karst features." SENM-S-21 (emphasis added). This stipulation, however, does not require any additional surveying or assessment of karst features that may not yet be documented. And even where such a stipulation is in effect, it is inadequate to prevent the risk of contaminating karst aquifers, given that it relies on an unreasonably optimistic assumption that well sealing and casing will be 100% effective in preventing contamination of non-targeted karst aquifers.

284. Given the recognized aquifer contamination risk associated with oil and gas drilling and production in karst areas and BLM's incomplete knowledge regarding the extent of karst in the Pecos District – both above- and below-ground – BLM cannot rely on the karst mitigation stipulation for its conclusion that no significant impacts on karst resources are likely. BLM failed to offer a convincing explanation for how this stipulation – which at best protects only *known* karst resources – is adequate to protect against significant impacts to areas of unmapped karst resources, which are likely to be extensive.

285. Nor has the agency taken a hard look at likely impacts to water resources due to the extraction of massive amounts of water needed to support fracking. BLM failed to compare information regarding water usage and potential sources with existing water resources, surface and groundwater, to develop at least a qualitative assessment of where the fracking water is likely to come from, and the likely impacts of such use.

286. The agency proposes to defer site-specific analysis of water resources impacts to the APD stage, calling it "speculative to predict the actual source of water that will be used" during fracking operations. But given the substantial oil and gas development that has already occurred in areas near the leased parcels, the agency could have provided reasonable estimates

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for the amount of water needed per fracked well, likely number of wells to be fracked (and re-fracked), and total amount of water resources needed to support the development of the leased parcels. This information is necessary to assess the significance of the water resources impacts of BLM's leasing activities, yet BLM failed to provide this necessary information for the September 2017, December 2017, and September 2018 lease sales. Thus, the true significance of projected water usage cannot be determined based upon the information relied upon and provided by BLM.

287. BLM's claim that it would be speculative to predict potential water sources is belied by its apparent ability to do so in subsequent lease sales. For the December 2018 lease, BLM did, in fact, estimate potential water usage and identify regional water sources, demonstrating that such an assessment was feasible for the earlier sales.

288. Critically, however, BLM never analyzed in any of the challenged EAs whether additional water resources are in fact physically and legally available to meet projected demands. Specifically, BLM failed to provide any information regarding the current conditions of any of the rivers or aquifers that will potentially be tapped to serve new oil and gas development. BLM's failure to provide this information leaves decision-makers in the dark as to whether area rivers have adequate flows to support additional withdrawals and whether aquifers in the region are already in an unsustainable, overdraft condition, which would be exacerbated by additional water usage for oil and gas development.

3. Other Impacts

289. BLM failed to assess the environmental impacts associated with the additional infrastructure that will inevitably be needed to support oil and gas development on the leased parcels. Specifically, BLM provided no assessment of additional roads, gathering pipelines, or

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wastewater disposal wells needed to serve the leased parcels. Nor did BLM assess the impacts of the significant truck traffic that will be generated by development of the leased parcels throughout the region, or explain why such truck traffic – and associated air emissions, dust, and noise – would not have a significant environmental impact.

290. BLM also failed to assess the risks of potential induced seismicity associated with fracking and underground wastewater injection, despite the well-documented connection between oil and gas development activities and earthquakes. With recent increases in seismic activity in the Greater Carlsbad region/Permian Basin corresponding to the increase in oil and gas production in the area, BLM was on notice of induced seismicity as a distinct risk associated with increasing oil and gas development in the Pecos District. As noted above, since 1999, more than two dozen earthquakes have been recorded in the oil and gas producing area northwest of Carlsbad within the Carlsbad Field Office, including in areas leased as part of the challenged lease sales. BLM failed to consider this potentially significant environmental impact. While the Hydraulic Fracturing White Paper incorporated into at least one of the challenged EAs flagged induced seismicity as a potential issue related to fracking and wastewater disposal, the agency provided no analysis of the magnitude or significance of the risk. Notably, the agency provided no discussion of the earthquake activity that has been documented in the Greater Carlsbad region/Permian Basin and its likely connection to oil and gas development.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF
Failure to Take a Hard Look at the Environmental Impacts of Oil and Gas Development (BLM's Violation of NEPA)

291. The allegations made in all preceding paragraphs are re-alleged and incorporated by this reference.

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292. Pursuant to NEPA and its implementing regulations, BLM must take a hard look at the direct, indirect, and cumulative environmental impacts of a proposed action before the agency makes any irreversible and irretrievable commitment of resources. 42 U.S.C. §§ 4332(2)I(i)-(v); 40 C.F.R. §§ 1502.14(a), 1502.16, 1508.7, 1508.8, and 1508.14.

293. BLM tiered its EAs for the September 2017, December 2017, and September 2018, lease sales to outdated BLM planning documents, namely the 1988 Carlsbad RMP/EIS and its 1997 amendments, and the 1997 Roswell RMP/EIS. These outdated planning documents did not account for the development of new drilling technologies, including multi-stage fracking and horizontal drilling, that have been widely adopted in the Greater Carlsbad region/Permian Basin over the past ten years. Not only do these unconventional drilling techniques result in different types and magnitude of environmental impacts compared to traditional oil and gas development, these technologies have enabled a boom in production throughout the Greater Carlsbad region/Permian Basin that was unanticipated when BLM's planning documents were completed. By tiering its analysis to these outdated planning documents, BLM failed to take a hard look at the environmental impacts of the Leasing Authorizations.

294. Oil and gas development on the 210 leases, individually and when added to other past, present, and reasonably foreseeable future activities have potentially significant direct, indirect, and cumulative impacts on air quality, water quality and quantity, climate, landscapes, and seismic stability in the region. In spite of this, BLM did not take a hard look at any of these impacts associated with expanding oil and gas development in the Pecos District.

295. Because lease issuance without a No Surface Occupancy stipulation represents an irretrievable commitment of resources, BLM must take a hard look at all reasonably foreseeable impacts at the leasing stage.

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296. Because BLM failed to take a hard look at direct, indirect, and cumulative impacts of expanding oil and gas development in BLM's Pecos District, BLM's authorization of the 210 leases challenged herein is arbitrary, capricious, and abuse of discretion, in excess of statutory authority and limitations, short of statutory right, and not in accordance with the law and procedures required by law. 5 U.S.C. §§ 706(2)(A), (C), (D).

SECOND CLAIM FOR RELIEF
Failure to Provide a Convincing Statement of Reasons on the Record Justifying Decision to Forego Preparation of an EIS
(BLM's Violation of NEPA)

297. The allegations made in all preceding paragraphs are re-alleged and incorporated by this reference.

298. BLM's authorization and issuance of the leases sold through the September 2017, December 2017, and September 2018 oil and gas lease sales constitute major federal actions under NEPA.

299. BLM does not have to prepare an EIS where it has demonstrated that the proposed action "will not have a significant effect on the human environment[.]" 40 C.F.R. § 1508.13. To assess whether or not an impact is significant, BLM must consider the "context and intensity" of the impact. 40 C.F.R. § 1508.27.

300. BLM failed to evaluate the context and intensity of the environmental impacts resulting from its decision to issue the 210 leases challenged herein, pursuant to NEPA. BLM also failed to provide convincing statements of reasons justifying its decision to forgo an EIS analyzing the impacts of the 210 lease parcels challenged herein, as required by NEPA.

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301. BLM's Leasing Authorizations could significantly impact climate, air quality, water quality and quantity, landscapes, and seismic stability in the region. NEPA therefore requires BLM to identify such impacts and assess their context and intensity on the record to support the agency's decision to forego an EIS.

302. BLM's assertion in its EAs that it may require mitigation measures at the drilling stage does not eliminate substantial questions at the leasing stage as to whether lease development may significantly impact the environment and, further, does not support BLM's decisions to forgo EISs for the three lease sales.

303. Because BLM failed to provide a convincing statement of reasons on the record justifying its decisions to forego preparation of an EIS, BLM's actions are arbitrary, capricious, and abuse of discretion, in excess of statutory authority and limitations, short of statutory right, and not in accordance with the law and procedures required by law. 5 U.S.C. §§ 706(2)(A), (C), (D).

THIRD CLAIM FOR RELIEF
Unlawful Issuance of Leases During Pending Resource Management Plan Amendment
(BLM's Violation of NEPA)

304. The allegations made in all preceding paragraphs are re-alleged and incorporated by this reference.

305. BLM has determined, consistent with the agency's obligation pursuant to 43 C.F.R. § 1610.5-6, that a Carlsbad Field Office RMP Amendment is needed to account for "changing land use conditions" and "changes in resource demands" in the area, "taking into account new technology, such as horizontal drilling methods." AMS, at 1-1.

306. Of the 210 leases issued as a result of the September 2017, December 2017, and September 2018 lease sales, 173 are located within the Carlsbad Field Office RMP Amendment

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planning area, as well as the Reasonably Foreseeable Development Scenario analysis area.

307. BLM sold the 173 leases within the Carlsbad Field Office challenged herein according to the conditions and analyses contained in the 1988 Carlsbad RMP, and the 1997 Carlsbad RMP update.

308. BLM's Carlsbad Field Office is currently undergoing a revision of the 1988 RMP, as updated in 1997.

309. Pursuant to NEPA implementing regulations at 40 C.F.R. § 1506.1(c): "[w]hile work on a required program environmental impact statement is in progress and the action is not covered by an existing program statement, agencies shall not undertake in the interim any major Federal action covered by the program which may significantly affect the quality of the human environment…"

310. The sale of the 173 challenged leases within the Carlsbad Field Office impermissibly prejudices the decisionmaking process and limits the choices of alternatives in the pending Carlsbad RMP Amendment and EIS, in violation of 40 C.F.R. § 1506.1(c).

311. Because BLM authorized an action that could prejudice or limit the choice of alternatives in the broader EIS that will accompany the ongoing Resource Management Plan Amendment, BLM's actions are arbitrary, capricious, and abuse of discretion, in excess of statutory authority and limitations, short of statutory right, and not in accordance with the law and procedures required by law. 5 U.S.C. §§ 706(2)(A), (C), (D).

FOURTH CLAIM FOR RELIEF
Unlawful Adoption and Implementation of IM 2018-034
(BLM's Violation of NEPA, FLPMA, and BLM Regulations)

312. The allegations made in all preceding paragraphs are realleged and incorporated by this reference.

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313. This Fourth Claim for Relief challenges BLM's adoption and implementation of IM 2018-034 as violating the public participation requirements of FLPMA, 43 U.S.C. § 1739(e), NEPA, 42 U.S.C. §§ 4321 *et seq*., and the implementing regulations of NEPA, 40 C.F.R. §§ 1500 *et seq*. This claim is brought under the judicial review provisions of the APA, 5 U.S.C. § 706.

314. FLPMA Section 309(e) provides that the public must be allowed meaningful participation in public lands management decisions. 43 U.S.C. § 1739(e). It requires that: "In exercising his authorities under this Act, the Secretary [of Interior] shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for, and the management of, the public lands." *Id.* (emphasis added).

315. The Department of the Interior's regulations implementing FLPMA further require that "[t]he public shall be provided opportunities to meaningfully participate in and comment on the preparation of plans, amendments and related guidance and be given early notice of planning activities." 43 C.F.R. § 1610.2(a).

316. The FLPMA mandate to involve the public in all public lands management decisions applies not just to the development of plans and programs, but also to the "actual management of public lands." *Donald K. Majors*, 123 IBLA 142, 147 (1992). "There are strong indications that Congress intended some form of public input for all decisions that may have significant impact on federal lands." *Nat'l Wildlife Fed'n v. Burford*, 835 F.2d 305, 322 (1987) (citing H.R. Rep. No. 1163, 94th Cong., 2d Sess. 7 (1976), U.S. Code Cong. & Ad. News 1976, p. 6181), *rev'd on other grounds*, 497 U.S. 871 (1990).

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317. NEPA regulations mandate that agencies "shall to the fullest extent possible . . . [e]ncourage and facilitate public involvement in the decisions which affect the quality of the human environment." 40 C.F.R. § 1500.2(d). Indeed, "NEPA procedures must insure that environmental information is available to public officials and citizens *before decisions are made and before actions are taken* . . . . Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA." *Id.* § 1500.1(b) (emphasis added).

318. NEPA and implementing CEQ regulations further require federal agencies to involve the public in preparing and considering environmental documents that implement the Act. 40 C.F.R. § 1506.6; *id.* § 1506.6(b)(1) (requiring federal agencies to "[p]rovide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents so as to inform those persons and agencies who may be interested or affected"); *id.* § 1506.6(a) (requiring agencies to "make diligent efforts to involve the public in preparing and implementing their NEPA procedures"); *id.* § 1501.4(b) (requiring agencies to "involve . . . the public, to the extent practicable, in preparing [EAs]"); *id.* § 1502.19(a) (requiring public circulation of draft and final EISs).

319. As discussed above, IM 2018-034 makes public participation in the NEPA process for oil and gas lease sale review merely discretionary. IM 2018-034 replaced language from IM 2010-117 stating that BLM offices "will" provide for public participation with a provision that they "may" do so, thus violating the public participation requirement under CEQ regulations.

320. Moreover, IM 2018-034 purports to allow BLM to limit or exclude public involvement in oil and gas leasing decisions in other ways, including but not limited to avoiding

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new NEPA analysis and providing that public protests of a lease sale must be submitted within only 10 days, in contrast to the prior 30-day time period.

321. Department of Interior regulations further provide that the inclusion of particular parcels in a Notice of Competitive Lease Sale may be subject to protest or appeal. 43 C.F.R. § 3120.1-3.

322. In light of the unreasonable constraints on public participation created by multiple provisions of IM 2018-034, including requiring Guardians and other members of the public to formulate and submit protests on oil and gas lease sales within only 10 days, IM 2018-034 deprives Guardians and the public of the meaningful opportunity to participate in leasing decisions, including the Leasing Authorizations for the September 2018 lease sale, in violation of FLPMA and NEPA.

323. BLM regulations allow for lease sales to be suspended pending resolution of administrative protests and appeals, stating that "[t]he authorized officer may suspend the offering of a specific parcel while considering a protest or appeal against its inclusion in a Notice of Competitive Lease Sale." 43 C.F.R. § 3120.1-3. Further, "the Assistant Secretary for Land and Minerals Management may suspend a lease sale for good and just cause after reviewing the reason(s) for an appeal." *Id.*

324. IM 2018-034, however, eliminates BLM officers' discretion to suspend the sale of protested parcels pending resolution of the protest, specifically providing that "Parcels subject to protests that are not resolved (i.e., pending protests) *will be offered for lease sale*." (emphasis added).

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325. By eliminating any officer discretion to suspend the sale of protested parcels pending resolution of the protests, BLM's adoption of IM 2018-04 was in violation of 43 C.F.R. § 3120.1-3.

326. In its decision-making process for the September 2018 lease sale, BLM followed the unlawful public participation procedures outlined by IM 2018-04. BLM provided no opportunity for public comment on a draft EA for either of these lease sales, limited the protest period to only ten days, and proceeded with the lease sales while protests, including Guardians' protests, were pending.

327. BLM's adoption and implementation of IM 2018-034 is arbitrary, capricious, an abuse of discretion, and not in accordance with law under FLPMA, NEPA, and the APA, which has caused or threatens serious prejudice and injury to the rights and interests of Guardians and their officers, members and staff.

FIFTH CLAIM FOR RELIEF
Unlawful Violation of Notice and Comment Rulemaking Requirements
(BLM's Violation of the APA)

328. The allegations made in all preceding paragraphs are realleged and incorporated by this reference.

329. This Fifth Claim for Relief challenges BLM's adoption of IM 2018-034 as violating requirements for public notice and comment in agency rulemaking under 5 U.S.C. § 553. This claim is brought under the judicial review provisions of the APA, 5 U.S.C. § 706.

330. The APA requires federal agencies to provide public notice of, and an opportunity for public comment on, all legislative rules. *See* 5 U.S.C. § 553.

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331. IM 2018-034 constitutes a legislative rule because it effectively rescinds CEQ regulations requiring agencies to "involve the public" in the NEPA review process. *See* 40 C.F.R. §§ 1506.6, 1500.1(b), & 1501.4(b).

332. IM 2018-034 also constitutes a legislative rule because it contains rules which bind the agency and impose or affect individual rights and duties, including the rights of Guardians and the public to exercise their rights to protest or appeal oil and gas leasing decisions under the Mineral Leasing Act.

333. IM 2018-034 also constitutes a legislative rule because it so severely forecloses effective opportunities for public participation in the BLM's oil and gas lease sale process – including in the Leasing Authorizations challenged herein – that it jeopardizes the substantive rights and interests of Guardians and other members of the public under NEPA, FLPMA, and other applicable laws.

334. By failing to provide public notice or an opportunity for public comment before issuing IM 2018-034, Defendants failed to observe procedures required by law, in contravention of the APA. 5 U.S.C. § 553. Accordingly, IM 2018-034 is arbitrary, capricious, and contrary to law, in violation of the APA, which has caused and threatens further serious prejudice and injury to the rights and interests of Guardians and its members and staff.

RELIEF REQUESTED

WHEREFORE, Guardians respectfully requests that this Court:

A. Declare that Defendants' Leasing Authorizations violate NEPA, FLPMA, the APA, and their implementing regulations, and;

B. Vacate and remand Defendants' Leasing Authorizations;

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C. Enjoin Defendants from any further leasing authorizations within the Pecos District pending Defendants' full compliance with NEPA, FLPMA, the APA, and their implementing regulations;

D. Enjoin Federal Defendants from approving or otherwise taking action on any pending or future applications for permits to drill on the leases included in the lease sales challenged herein until Federal Defendants have fully complied with NEPA and its implementing regulations;

E. Declare that IM 2018-04 is unlawful under FLPMA, NEPA, the APA, and their regulations, and reverse, set aside, and enjoin Defendants from continuing to implement IM 2018-034;

F. Enter such other declaratory and/or injunctive relief as Guardians may specifically request hereafter;

G. Retain continuing jurisdiction of this matter until Defendants fully remedy the violations of law complained of herein;

H. Award Guardians its fees, costs, and other expenses as provided by applicable law; and

I. Grant Guardians such additional and further relief as this Court may deems just, proper, and equitable.

Respectfully submitted this 3rd day of June 2019,

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Table A. List of Lease Parcels Challenged Herein

September 7, 2017 Lease Sale

Lease Serial Number	BLM Field Office
NMNM 137424	Carlsbad
NMNM 137425	Carlsbad
NMNM 137426	Carlsbad
NMNM 137427	Carlsbad
NMNM 137428	Carlsbad
NMNM 137429	Carlsbad
NMNM 137430	Carlsbad
NMNM 137431	Carlsbad
NMNM 137432	Carlsbad
NMNM 137433	Roswell
NMNM 137434	Roswell
NMNM 137435	Roswell
NMNM 137436	Roswell
NMNM 137437	Roswell
NMNM 137438	Roswell
NMNM 137439	Roswell
NMNM 137440	Roswell
NMNM 137441	Roswell
NMNM 137442	Roswell
NMNM 137443	Roswell
NMNM 137444	Carlsbad
NMNM 137445	Carlsbad
NMNM 137446	Roswell
NMNM 137447	Carlsbad
NMNM 137448	Carlsbad
NMNM 137449	Roswell
NMNM 137450	Roswell
NMNM 137451	Roswell
NMNM 137452	Roswell
NMNM 137453	Carlsbad
NMNM 137454	Carlsbad

Lease Serial Number	BLM Field Office
NMNM 137455	Carlsbad
NMNM 137456	Carlsbad
NMNM 137457	Carlsbad
NMNM 137458	Carlsbad
NMNM 137459	Roswell
NMNM 137460	Roswell
NMNM 137461	Roswell
NMNM 137462	Carlsbad
NMNM 137463	Carlsbad
NMNM 137464	Carlsbad
NMNM 137465	Carlsbad
NMNM 137466	Carlsbad
NMNM 137467	Carlsbad
NMNM 137468	Carlsbad
NMNM 137469	Carlsbad
NMNM 137470	Carlsbad
NMNM 137471	Carlsbad
NMNM 137472	Carlsbad
NMNM 137473	Carlsbad
NMNM 137474	Carlsbad
NMNM 137475	Carlsbad
NMNM 137476	Carlsbad
NMNM 137477	Carlsbad
NMNM 137478	Carlsbad
NMNM 137479	Carlsbad
NMNM 137480	Carlsbad
NMNM 137481	Carlsbad
NMNM 137482	Carlsbad
NMNM 137483	Carlsbad
NMNM 137484	Carlsbad

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December 7, 2017 Lease Sale

Lease Serial Number	BLM Field Office
NMNM 137803	Carlsbad
NMNM 137804	Carlsbad
NMNM 137805	Carlsbad
NMNM 137806	Carlsbad

Lease Serial Number	BLM Field Office
NMNM 137807	Carlsbad
NMNM 137808	Carlsbad
NMNM 137809	Carlsbad

September 5-6, 2018 Lease Sale

Lease Serial Number	BLM Field Office
NMNM 138795	Roswell
NMNM 138796	Carlsbad
NMNM 138797	Carlsbad
NMNM 138798	Carlsbad
NMNM 138799	Carlsbad
NMNM 138800	Carlsbad
NMNM 138801	Carlsbad
NMNM 138802	Carlsbad
NMNM 138803	Carlsbad
NMNM 138804	Carlsbad
NMNM 138805	Carlsbad
NMNM 138806	Carlsbad
NMNM 138807	Carlsbad
NMNM 138808	Carlsbad
NMNM 138809	Carlsbad
NMNM 138810	Carlsbad
NMNM 138811	Carlsbad
NMNM 138812	Carlsbad
NMNM 138813	Carlsbad
NMNM 138814	Carlsbad
NMNM 138815	Carlsbad
NMNM 138816	Carlsbad
NMNM 138817	Carlsbad
NMNM 138818	Carlsbad
NMNM 138819	Carlsbad

Lease Serial Number	BLM Field Office
NMNM 138866	Carlsbad
NMNM 138867	Carlsbad
NMNM 138868	Carlsbad
NMNM 138869	Carlsbad
NMNM 138870	Carlsbad
NMNM 138871	Carlsbad
NMNM 138872	Carlsbad
NMNM 138873	Carlsbad
NMNM 138874	Carlsbad
NMNM 138875	Carlsbad
NMNM 138876	Carlsbad
NMNM 138877	Carlsbad
NMNM 138878	Carlsbad
NMNM 138879	Carlsbad
NMNM 138880	Carlsbad
NMNM 138881	Carlsbad
NMNM 138882	Carlsbad
NMNM 138883	Carlsbad
NMNM 138884	Carlsbad
NMNM 138885	Carlsbad
NMNM 138886	Carlsbad
NMNM 138887	Carlsbad
NMNM 138888	Carlsbad
NMNM 138889	Carlsbad
NMNM 138890	Carlsbad

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NMNM	138820	Carlsbad	NMNM	138891	Carlsbad
NMNM	138821	Carlsbad	NMNM	138892	Carlsbad
NMNM	138822	Carlsbad	NMNM	138893	Carlsbad
NMNM	138823	Carlsbad	NMNM	138894	Carlsbad
NMNM	138824	Carlsbad	NMNM	138895	Carlsbad
NMNM	138825	Carlsbad	NMNM	138896	Carlsbad
NMNM	138826	Carlsbad	NMNM	138897	Carlsbad
NMNM	138827	Carlsbad	NMNM	138898	Carlsbad
NMNM	138828	Carlsbad	NMNM	138899	Carlsbad
NMNM	138829	Roswell	NMNM	138900	Carlsbad
NMNM	138830	Carlsbad	NMNM	138901	Carlsbad
NMNM	138831	Roswell	NMNM	138902	Carlsbad
NMNM	138832	Roswell	NMNM	138903	Carlsbad
NMNM	138833	Roswell	NMNM	138904	Carlsbad
NMNM	138834	Carlsbad	NMNM	138905	Carlsbad
NMNM	138835	Carlsbad	NMNM	138906	Carlsbad
NMNM	138836	Carlsbad	NMNM	138907	Carlsbad
NMNM	138837	Carlsbad	NMNM	138908	Carlsbad
NMNM	138838	Roswell	NMNM	138909	Carlsbad
NMNM	138839	Roswell	NMNM	138910	Carlsbad
NMNM	138840	Roswell	NMNM	138911	Carlsbad
NMNM	138841	Roswell	NMNM	138912	Carlsbad
NMNM	138842	Roswell	NMNM	138913	Carlsbad
NMNM	138843	Carlsbad	NMNM	138914	Carlsbad
NMNM	138844	Carlsbad	NMNM	138915	Carlsbad
NMNM	138845	Carlsbad	NMNM	138916	Carlsbad
NMNM	138846	Carlsbad	NMNM	138917	Carlsbad
NMNM	138847	Carlsbad	NMNM	138918	Carlsbad
NMNM	138848	Carlsbad	NMNM	138919	Carlsbad
NMNM	138849	Carlsbad	NMNM	138920	Carlsbad
NMNM	138850	Carlsbad	NMNM	138921	Carlsbad
NMNM	138851	Carlsbad	NMNM	138922	Carlsbad
NMNM	138852	Roswell	NMNM	138923	Carlsbad
NMNM	138853	Roswell	NMNM	138924	Carlsbad
NMNM	138854	Roswell	NMNM	138925	Carlsbad
NMNM	138855	Roswell	NMNM	138926	Carlsbad
NMNM	138856	Roswell	NMNM	138927	Carlsbad
NMNM	138857	Roswell	NMNM	138928	Carlsbad

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NMNM 138858	Roswell
NMNM 138859	Roswell
NMNM 138860	Carlsbad
NMNM 138861	Carlsbad
NMNM 138862	Carlsbad
NMNM 138863	Carlsbad
NMNM 138864	Carlsbad
NMNM 138865	Carlsbad

NMNM 138929	Carlsbad
NMNM 138930	Carlsbad
NMNM 138931	Carlsbad
NMNM 138932	Carlsbad
NMNM 138933	Carlsbad
NMNM 138934	Carlsbad
NMNM 138935	Carlsbad
NMNM 138936	Carlsbad

AMERICAN OVERSIGHT

Subject: XTO : Quick Conversation
Location: ZOOM or +1 346 248 7799, Password: 188572; https://protect-us.mimecast.com/s/tf5aCW6lJgTw66OxU6Bxbw?domain=exxonmobil.zoom.us

Start: Friday, May 28, 2021 4:00 PM EDT
End: Friday, May 28, 2021 4:30 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kenney, Janie R
Required Attendees: Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Hall, James A <james.hall@exxonmobil.com>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

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Zoom Meeting Invite

Join Meeting

Meeting URL:
https://exxonmobil.zoom.us/j/8756265506?pwd=OHpSRjJyMEJpTUU4WUhtQUl4YmVyZz09

Meeting ID: 875 626 5506 (Password: 188572)

Phone One Tap: +13462487799,,8756265506# US
(Houston) +12532158782,,8756265506# US
(Tacoma)

Join by Telephone

Dial by your location:
+1 346 248 7799 US (Houston) +1 253 215 8782 US (Tacoma) +1 669 900 9128 US (San Jose) +1 312 626 6799 US (Chicago) +1 646 558 8656 US (New York) +1 301 715 8592 US (Washington DC)
Password: 188572

Find your local number:
https://exxonmobil.zoom.us/u/aVfjApS5

Join from an H.323/SIP room system

Join by SIP
8756265506@zoomcrc.com

Join by H.323
162.255.37.11 (US West)
162.255.36.11 (US East)
115.114.131.7 (India Mumbai)
115.114.115.7 (India Hyderabad)
213.19.144.110 (Amsterdam Netherlands)
213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
8756265506@162.255.36.11 (US East)

Meeting ID: 875 626 5506
Password: 188572

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Subject: XTO Audit Discussion Follow up
Location: Microsoft Teams Meeting

Start: Tuesday, April 12, 2022 3:00 PM EDT
End: Tuesday, April 12, 2022 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>

Janie- Please forward onto anyone appropriate on your end.

Microsoft Teams meeting

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Phone Conference ID: 596 473 355#
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Subject: XTO compliance discussion
Location: Microsoft Teams Meeting

Start: Wednesday, May 04, 2022 3:00 PM EDT
End: Wednesday, May 04, 2022 4:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Powell, Brandon, EMNRD
Required Attendees: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>
Optional Attendees: Luck, Kaitlyn, EMNRD <Kaitlyn.Luck@state.nm.us>

Microsoft Teams meeting

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AMERICAN OVERSIGHT

Subject: XTO Follow-Up Discussion
Location: https://protect-us.mimecast.com/s/A45uC73wZvIjZ3w5h8st5Q?domain=exxonmobil.zoom.us

Start: Monday, June 14, 2021 4:30 PM EDT
End: Monday, June 14, 2021 5:30 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Kenney, Janie R
Required Attendees: Kenney, Janie R <janie.r.kenney@exxonmobil.com>; Hall, James A <james.hall@exxonmobil.com>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>

AMERICAN OVERSIGHT

Zoom Meeting Invite

Join Meeting

Meeting URL:
https://exxonmobil.zoom.us/j/8756265506?pwd=OHpSRjJyMEJpTUU4WUhtQUl4YmVyZz09

Meeting ID: 875 626 5506 (Password: 188572)

Phone One Tap: +13462487799,,8756265506# US (Houston) +12532158782,,8756265506# US (Tacoma)

Join by Telephone

Dial by your location:
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Password: 188572

Find your local number:
https://exxonmobil.zoom.us/u/aVfjApS5

Join from an H.323/SIP room system

Join by SIP
8756265506@zoomcrc.com

Join by H.323
162.255.37.11 (US West)
162.255.36.11 (US East)
115.114.131.7 (India Mumbai)
115.114.115.7 (India Hyderabad)
213.19.144.110 (Amsterdam Netherlands)
213.244.140.110 (Germany)
103.122.166.55 (Australia Sydney)
103.122.167.55 (Australia Melbourne)
209.9.211.110 (Hong Kong SAR)
149.137.40.110 (Singapore)
64.211.144.160 (Brazil)
69.174.57.160 (Canada Toronto)
65.39.152.160 (Canada Vancouver)
207.226.132.110 (Japan Tokyo)
149.137.24.110 (Japan Osaka)
8756265506@162.255.36.11 (US East)

Meeting ID: 875 626 5506
Password: 188572

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Subject: XTO OCD NOV Meeting
Location: 1220 S. St Francis (3rd floor)

Start: Tuesday, June 14, 2022 3:00 PM EDT
End: Tuesday, June 14, 2022 5:00 PM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Fuge, Dylan , EMNRD <Dylan.Fuge@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Luck, Kaitlyn, EMNRD <Kaitlyn.Luck@state.nm.us>; Rabadue, Stephanie <stephanie.rabadue@exxonmobil.com>; Greaves, David <David.Greaves@exxonmobil.com>
Optional Attendees: Abbott, Lance H <lance.abbott@exxonmobil.com>

XTO please forward onto appropriate people.

Microsoft Teams meeting

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Subject: XTO Remediation Follow up
Location: Microsoft Teams Meeting

Start: Wednesday, April 13, 2022 10:00 AM EDT
End: Wednesday, April 13, 2022 11:00 AM EDT
Show Time As: Busy

Recurrence: None

Meeting Status: Not yet responded

Organizer: Sandoval, Adrienne, EMNRD
Required Attendees: Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Tremaine, Jesse K, EMNRD <JesseK.Tremaine@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Bratcher, Mike, EMNRD <mike.bratcher@state.nm.us>; Griswold, Jim, EMNRD <Jim.Griswold@state.nm.us>

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Subject: Zoom meeting with IOGCC Re: Infrastructure Grant/NOI meeting

Start: Friday, December 03, 2021 2:00 PM EST
End: Friday, December 03, 2021 3:30 PM EST
Show Time As: Tentative

Recurrence: None

Meeting Status: Not yet responded

Organizer: Marcus, Ramona, EMNRD
Required Attendees: Marcus, Ramona, EMNRD <Ramona.Marcus@state.nm.us>; Sandoval, Adrienne, EMNRD <Adrienne.Sandoval@state.nm.us>; Vermersch, Amy H, EMNRD <AmyH.Vermersch@state.nm.us>; Polak, Tiffany, EMNRD <Tiffany.Polak@state.nm.us>; Wade, Gabriel, EMNRD <Gabriel.Wade@state.nm.us>
Optional Attendees: Powell, Brandon, EMNRD <Brandon.Powell@state.nm.us>

DEAR OCD COLLEAGUES: NOTE TIME CHANGE (Thank you, Adrienne). The meeting is noon to 1:30 PM.

Perhaps overkill, but in case you did not get the information for this Friday's meeting with IOGCC staff.

Also, if you have any questions to submit prior to the meeting, I will be sending an email with five (5) questions we discussed a few hours ago.

Thank you.

Ramona

Please submit any questions to: amy.childers@iogcc.state.ok.us.

You can cancel your registration at any time.

WAYS TO JOIN ZOOM

1. Join from PC, Mac, iPad, or Android

Join Meeting

If the button above does not work, paste this into your browser:

https://us02web.zoom.us/w/89077533470?tk=2KatpA_TyeUeXMl0r8t9gCAPrgVkVn7wrwRyUGb_ZC8.DQMAAAAUvW9LHhYyMEkyRFUyUFJMZWtPbnEzY19iSUtnAAAAAAAAAAAAAAAAAAAAAAAAAAAAAAA&pwd=dD

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2. Join via audio

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Meeting ID:	890 7753 3470
Passcode:	099694

International numbers

Thank you!

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