



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Energy and Mineral Resources; Ashley Nichols (Ashley.Nichols@mail.house.gov) (251-656-8498) and Rebecca Konolige (Rebecca.Konolige@mail.house.gov) (914-217-8728)
Date: April 12, 2021
Subject: Legislative Hearing: “Building Back Better: Creating Jobs and Reducing Pollution by Plugging and Reclaiming Orphaned Wells”

The Subcommittee on Energy and Mineral Resources will hold a legislative hearing titled “Building Back Better: Creating Jobs and Reducing Pollution by Plugging and Reclaiming Orphaned Wells” on H.R. 2415 (Leger Fernández), the “Orphaned Well Cleanup and Jobs Act,” on **Thursday, April 15, 2021, at 2:00pm**. This is a virtual hearing.

Member office are requested to notify Ashley Nichols by 4:30pm on Wednesday, April 14, if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee’s electronic depository at HNRCDocs@mail.house.gov. Please contact David DeMarco (DavidDeMarco@mail.house.gov) or Everett Winnick (Everitt.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The United States has hundreds of thousands of abandoned oil and gas wells with unknown or insolvent operators. Oil and gas operations began in the United States in the 1800s, and many of the sites in question were abandoned before modern regulation became widespread a century later.¹ These are referred to as “orphan” wells.
- Orphan wells are acknowledged as a hazard, and there is bipartisan interest in remediating them to both help the environment and to stimulate jobs in the oil and gas sector coming out of the pandemic. The states are in the best position to oversee this process, and this bipartisan issue should not be used as an opportunity for “back door” regulations on the oil and gas industry.
- Unfortunately, H.R. 2415 predicates millions of dollars of grant funding on the adoption of new regulations, including partisan bonding reform and methane emissions

¹ Interstate Oil & Gas Compact Commission. *Idle and Orphan Oil and Gas Wells: State and Regulatory Strategies*, p. 5, 2019.
https://iogcc.ok.gov/sites/g/files/gmc836/f/documents/2021/2020_03_04_updated_idle_and_orphan_oil_and_gas_wells_report.pdf



regulations at least as stringent as the Obama-era “methane rule.” These provisions would be extremely burdensome to current operators, disincentivizing development in an industry starting to recover from the economic impacts COVID-19.

II. WITNESSES

- Mr. Tom Kropatsch, Deputy Oil and Gas Supervisor, Wyoming Oil and Gas Conservation Commission, Casper, WY [*Republican witness*]
- Mr. Tim Tarpley, Senior VP for Government Affairs, Energy Workforce and Technology Council, Houston, TX [*Republican witness*]
- Ms. Lori Wrotenbery, Executive Director, Interstate Oil and Gas Compact Commission, Oklahoma City, OK
- Dr. Mary Kang, Assistant Professor of Civil Engineering and Applied Mechanics, McGill University
- Mr. Don Schreiber, Rancher, Rio Arriba County, NM
- Mr. Ted Boettner, Senior Researcher, Ohio River Valley Institute

III. BACKGROUND

H.R. 2415 (Leger Fernández)

Orphaned Wells

The existence of orphaned across the United States is well documented, and their health and safety risks are undisputed. However, the scope of the problem is hard to determine. A 2019 report from the Interstate Oil & Gas Compact Commission (IOGCC) found only 56,000 orphan wells have been documented, but the number of undocumented wells could be much higher, totaling anywhere from 210,000 to 746,000.² According to the Commission, the majority of orphaned wells occur on private land, ranging from zero documented wells in one state to 13,266 wells in another.³ About half of states and provinces reported fewer than 100 orphan wells.⁴

Currently, the vast majority of operators complete their reclamation responsibilities, though there are some bad actors who leave orphaned wells for the Bureau of Land Management (BLM) to clean up. According to the U.S. Government Accountability Office (GAO), of the 96,199 wells on federal lands, only 296 have been left to BLM to reclaim, roughly

² Id. at 14.

³ Id. at 12.

⁴ Id. at 5.

0.3% of the total.⁵ In terms of cost, BLM spends about \$267,600 per year on reclamation, while the onshore oil and gas program returned \$2.7 billion in royalties in 2018.⁶

Discretionary Grants Contingent on Regulations

Under H.R. 2415, funds will be disbursed to clean up abandoned wells through three types of grants: 1) initial grants, distributed to IOGCC member states with established remediation programs, or non-member states to begin a program; 2) formula grants based on the number of oil and gas jobs lost in the state, number of orphan wells, and oil and gas production in 2019; and 3) discretionary grants, distributed to states in exchange for certain regulatory reforms or increased spending on well remediation.

While federal funding is needed to assist states in cleanup efforts, tying discretionary grants to regulatory changes creates a perverse incentive. In particular, one of the qualifications for these grants is regulating methane emissions reductions, specifying that regulations must be at least as strict as the Obama-era Environmental Protection Agency rule titled, “Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources,” also known as the “methane rule.”⁷ Under this bill, up to \$20 million can be awarded per grant for states that enact these methane regulations or ones similarly restrictive. This aspect of the bill is not focused on well cleanup but would simply incentive states to enact stringent methane regulations that would be overly burdensome to current operators and which were repealed at the federal level in 2020.

Bonding Reform

States may also become eligible for the discretionary grants by enacting state-level bonding reforms, such as raising minimum bond requirements. The Department of the Interior requires lessees to provide bonds to cover the reclamation of any lands impacted by oil and gas development before any surface disturbance can occur.⁸ Currently, operators may post individual bonds of at least \$10,000 covering operations for one lease, at least \$25,000 covering all operations within a particular state, or at least \$150,000 to cover all operations nationwide. For federal wells, the bonds are held by the BLM until reclamation requirements are met. If an operator does not fulfill their reclamation responsibilities, and the bond provided to the federal government does not cover the cost of restoration, the wells become orphaned and the BLM must clean up the well.

In addition to awarding \$20 million per discretionary grant in return for state bonding reform, this bill also increases bond requirements at the federal level, requiring at least \$150,000 per surface-disturbing activity on an individual lease and \$500,000 to cover all

⁵ US Government Accountability Office. *Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells*. GAO-19-615: Published: Sep 18, 2019. <https://www.gao.gov/products/GAO-19-615>

⁶ US Department of the Interior. Bureau of Land Management. About the oil and gas program. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/about>.

⁷ 81 Fed. Reg. 35824.

⁸ US Department of the Interior. Bureau of Land Management. Bonding. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/leasing/bonding>.

activities in a state. Sufficient bonding to cover reclamation is important, but drastically raising bond levels across the board would force operators to tie up significant amounts of capital in unproductive operations, which could reduce production and revenues overall. Notably, when companies acquire another company's assets, they must assume responsibility for reclamation of any operations as well. Because companies that are struggling are often acquired by other companies, wells considered at-risk by BLM are often ultimately reclaimed by operators.

IV. MAJOR PROVISIONS

- Amends the Energy Policy Act of 2005 by striking and replacing section 349, which authorized a program under DOI for addressing orphaned wells. Under this bill, the new program would require the Secretary of the Interior to establish a program within 180 days to permanently plug orphaned wells and remediate and reclaim orphan wells on federal land. This bill also directs the Secretary to issue new definitions of the terms “orphaned well” and “idled well.” The Secretary must also review all idled wells on federal lands and update the Department's inventory.
- Directs the Secretary to provide funding to states to clean up orphaned wells, inventory orphaned wells, measure and track methane emissions and groundwater contamination, conduct environmental remediation, and address environmental justice concerns.
- Creates grant programs divided into three categories:
 - Initial grants: the Secretary shall distribute up to \$25 million to states within the IOGCC that have an active orphan well program and up to \$5 million to states that are not a part of the IOGCC. States must expend these grants within two years and reimburse any unused funds.
 - Formula grants: the Secretary shall establish a formula taking into account job losses in the oil and gas sector during the COVID-19 pandemic, the number of documented orphan wells, and the projected cost to cleanup orphan wells within the state. Eligible states may apply to the Secretary for this funding by submitting the documentation required under this bill. States will only receive funding if the Secretary determines that the state has taken the appropriate steps to protect taxpayers from funding orphan well cleanup, approves of the state's process for declaring that wells are orphaned, and approves of the state's definition of the term “orphan well.” States have 5 years to expend formula grants and must reimburse the Department for any unobligated funds.
 - Discretionary grants:
 - **Regulatory improvement grants** – states may receive up to \$20 million per grant if the Secretary determines that the state has met one of the following criteria: 1) strengthened methane emissions to the standards set forth in Obama-era regulations; 2) strengthened plugging and abandonment rules to prevent groundwater contamination; or 3) improves state programs designed to prevent future orphan wells, including bonding reform or financial assurance reform. States must reimburse the Secretary all funds received via regulatory improvement grants if the Secretary determines that the state has enacted laws or

regulations that would have made them ineligible for such grants at the time of application.

- **Matching grants** – states may be eligible for matching grants 6 months after receiving an “initial grant” under this bill. Grants may be equal to the difference between the amount the state has spent to clean up orphan wells over the last nine years and the amount the state intends to spend over the next fiscal year. The Secretary may match up to \$30 million. States must submit documentation describing how this funding will improve economic conditions within the state.
- Authorizes a program within the Bureau of Indian Affairs to clean up orphaned wells and remediate environmental degradation on tribal lands. In allocating funds, the Secretary must consider the unemployment rate of the tribe, the number of orphaned wells on the tribe’s land, and the amount of oil and gas produced on the tribe’s land in 2019. Tribes must reimburse the Secretary for any unobligated funds 5 years after receipt.
- The Secretary shall, within 180 days, issue regulations requiring each operator of an idled well to pay an annual nonrefundable fee for each idled well. Fees are as follows: 1) \$500 per well that has been idled for 1-5 years; 2) \$1500 per well that has been idled for 5-10 years; 3) \$3500 per well that has been idled for 10-15 years; and 4) \$7500 per well that has been idled for 15 or more years. If operators do not pay the full amount owed under the bill, the Secretary may assess a civil penalty. The Secretary can adjust these fees for inflation.
- Requires that any entity carrying out an authorized project under this bill shall be required to pay prevailing wages under the Davis-Bacon Act.
- Amends the Mineral Leasing Act to require leaseholders to provide bond, surety, or other financial assurance in the amount of \$150,000 or more for each surface-disturbing activity on each individual lease or \$500,000 for operations statewide.

V. EFFECT ON CURRENT LAW (RAMSEYER)

H.R. 2415 (Leger Fernández)

[Link to Ramsayer.](#)