



May 29, 2025

The Honorable Doug Burgum
United States Secretary of the Interior
United States Department of Interior
1849 C Street, Northwest
Washington, D.C. 20240

Re: Unlawful and Anticompetitive Surety Conduct

Dear Secretary Burgum:

Overview

This memorandum supplements W&T Offshore, Inc.'s ("W&T") productions in response to the Department of the Interior's request for information regarding the surety agreements that W&T utilizes to comply with historical governmental financial assurance regulations. In particular, the following summarizes various instances where W&T believes the Sureties - - - knowing independent oil and gas producers need bonding in order to do business - - - have engaged in anticompetitive conduct by obligating independent oil and gas producers to sign inequitable indemnity agreements as preconditions to bond issuance. The information is not intended to be a comprehensive recitation of all potentially relevant facts; it is a summary which is based on W&T's factual investigation and understanding to date.

Indemnity Agreements

W&T must enter into Indemnity Agreements with the Sureties to obtain surety bonding before W&T can lease, permit, commence drilling operations, or acquire infrastructure in the Gulf of America ("GOA"). Indemnity Agreements contain a myriad of ***non-negotiable*** terms, including provisions that allow the Surety companies to demand collateral (in essence, cash up to the full amount of the bond) to cover any actual ***or potential*** (in their opinion) liability, claim, suit, or judgment under any bond. In 2024, in a unified concerted effort, several surety companies nearly simultaneously required W&T (and other oil and gas companies) to pay increased premiums (in most cases, two and three times the prior year's premium amounts, which would have totaled an additional several million dollars a year in premiums), and several demanded that W&T post 100% collateral in cash (the entire penal sum of the bond). This aggressive tactic effectively requires W&T to wholly self-insure itself by prepaying a liability that may not come due for decades - - - work that W&T has never failed to do in its 40+ year history. Demanding 100% collateralization allows insurance companies to carry no risk (for a 'liability' it will likely never need to pay), while simultaneously collect exorbitant premiums from W&T.

W&T has been a successful business for over four decades, is committed to fulfilling its contractual obligations and environmental responsibilities, and is committed to continuing its track record of safe operations in the GOA. W&T has *never* missed a premium payment on its surety bonds. In fact, W&T has paid over \$76.8 million in premium payments to surety companies since 2002.

W&T has never failed to clean up its leases and has performed approximately \$1 billion in plugging and abandonment in the GOA – more than any other company in the GOA. There has never been any actual or potential liability, claim, suit, or judgment for any W&T lease, nor any change in W&T's circumstances to give the Surety companies concern about W&T's financial wellbeing.

As can be reviewed in the attached "Amended Complaint," W&T filed suit against several surety companies and alleged that they breached their respective contracts by unlawfully demanding W&T to pay higher premiums and calling for collateral without justification. W&T also believes the Surety companies have unlawfully conspired and colluded in creating an anticompetitive market and fixing prices in violation of federal Antitrust laws.

Sureties' Awareness of Competitive Sensitivity of Terms

The Sureties' history of anticompetitive conduct can be traced back to at least 2020, and continues to the present day. The offshore surety market is intended to be competitive—where sureties compete to attract customers (i.e., offshore Exploration and Production companies, such as W&T) and competition forces sureties to offer competitive commercial terms, such as premium rates, performance bond amounts, and collateral requirements. Allowing sureties to know each other's (or, worse, collude in setting) commercial terms makes the GOA surety market inherently uncompetitive and subjects the few independent oil and gas offshore exploration and production companies to unfair business practices. This is exactly what has occurred in the offshore surety market over the past decade.

There have been several instances over the past five (5) years in which the sureties have sought information regarding competitor rates and terms from W&T (via emails and other communications to W&T). For example, one email shows a Surety stating that W&T must immediately notify that Surety of any changes to premium rates and collateral terms in W&T's agreements with competitor sureties. W&T also discovered other emails that were exchanged between Sureties requesting information about W&T's Indemnity Agreements with other sureties, including premium rates and collateral terms. When sureties gain access to this information, it is a direct disregard for competitive sensitivity. This disregard for competitive landscape has placed independent oil and gas producers in the GOA in vulnerable positions for increases in premium rates and collateral terms – which is exactly what occurred in 2024.

Communication Between Sureties

W&T has gathered significant evidence showing frequent coordination and communication between the Sureties. In addition, W&T has learned that, in early 2024, the Sureties conducted various meetings and communications to discuss collective financial issues related to the GOA surety market. One key meeting took place at the National Association of Surety Bond Producer's (NASBP) 2024 annual meeting. This annual Surety meeting was sponsored and attended by the Sureties that entered into Indemnity Agreements through which they provided bonding to W&T. The theme of the NASBP meeting was "ALL IN." During the annual surety meeting (which was recorded), several keynote speakers employed by the Sureties presented their "collective" strategy for the entire surety industry to raise premiums and call for collateral increases. [See attached transcript, Exhibit 1]

Shortly after their annual meeting, and in furtherance of this collective plan, the Sureties executed their plan and began demanding increased premium rates and calling for collateral. Within these demands, W&T has seen premium rate increases that are double or even triple the previously applied rate — this is in addition to over a hundred million dollars in collateral requests, all coordinated by and amongst the Sureties. Despite several inquiries by W&T to obtain justification for these requests and demands, the Sureties failed to provide a consistent reason. These actions of coordination and communication between sureties have dismantled the competitive nature of the surety bond market and continue to cause detriment to W&T's financial and operative abilities.

Conclusion

The foregoing, among other conditions, have allowed the Sureties to conduct their business operations in concerted and unlawful manner in violation of federal antitrust laws. Ultimately, the Surety companies' coordination and unlawful sharing of information resulted in a concerted attempt to increase premium rates and collateral terms, thus causing detrimental harm to independent oil and gas companies operating in the GOA.

Should you request additional information from W&T, please do not hesitate to let us know.

Sincerely,



Tracy W. Krohn
Chief Executive Officer
W&T Offshore, Inc.
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Houston, Texas 77057
713-626-8525

Exhibit 1

<p style="text-align: right;">Page 1</p> <p>1 2 TRANSCRIPT OF RECORDING 3 Oil and Gas Industry 4 An Update on BOEM Regulations.Mp3 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 3</p> <p>1 located just below where you clicked to enter the 2 virtual seminar today so please take a couple of 3 minutes and share your feedback with us there. 4 Today's virtual seminar is being 5 recorded and all registrants will have access to 6 the recording later this week. 7 Now it's my pleasure to introduce 8 today's presenters. We have with us today John 9 Hohlt, Senior Vice President, Practice Leader, 10 Surety, Natural Resources with CAC Specialty. 11 We also have Patrick Hennesy, National 12 Underwriting Officer with Sompo Surety. 13 And Jason Kilpatrick, Senior Vice 14 President, Energy Practice Leader with Applied 15 Surety Underwriters. 16 You can see the full bios for all of 17 today's presenters on the virtual seminar page. 18 Now it's my pleasure to turn the floor over to 19 you, John, so you can kick us off. 20 JOHN HOHLT: Great. Welcome everyone. 21 As laid out here, we're going to be 22 talking about the regulation changes going on in 23 BOEM, as it relates to financial assurance and the 24 OCS. So, Kate, if you would, jump to the next 25 slide here. We'll cover what we're going to talk</p>
<p style="text-align: right;">Page 2</p> <p>1 (Beginning of recording.) 2 3 KATE SHAMAPANDE: Welcome to this NASBP 4 virtual seminar titled: Oil and Gas Industry An 5 Update on BOEM Regulations. My name is Kate 6 Shamapande and I'll be your moderator for this 7 NASBP virtual seminar. 8 We'd like to begin by thanking Old 9 Republic Surety for their generous support of 10 NASBP's virtual seminars. Today's primary audio 11 connection is streaming via your computer. As an 12 audience member, you'll be in a listen-only mode 13 throughout today's presentation. 14 The handouts for today's session are 15 available through the handouts tab on the virtual 16 seminar page. And I'll send a link to that 17 handouts tab in the chat area once we get started. 18 We encourage you to submit your 19 questions at any time throughout today's virtual 20 seminar and we'll take questions through the chat 21 or the Q&A areas, and we'll take them both at the 22 end as well as throughout the presentation. 23 Additionally, after completing today's 24 virtual seminar, you'll have access to a short 25 evaluation on the virtual seminar page. It's</p>	<p style="text-align: right;">Page 4</p> <p>1 about. 2 So, you know, first and foremost, you 3 know, some of you may not be familiar with this 4 type of bond. And that's completely fine. There's 5 a lot of surety that I don't know. And so we'll 6 lay out kind of what the parameters are of this 7 change. Where is this change occurring? Who's in 8 charge? Give the general market update for this 9 region of surety, if you will. And then we'll go 10 through the specifics of the proposed rule change 11 and then the impact that it has followed by a Q&A. 12 I'll also say that feel free to chime 13 in with questions in the chat. Katherine will be 14 monitoring the chat and stopping us for questions 15 throughout. No problem answering questions 16 throughout, but there will also be a Q&A at the 17 end. 18 So without further ado, we'll jump in. 19 So what is the BOEM? The BOEM stands 20 for the Bureau of Ocean Energy Management. It's an 21 agency within the Department of the Interior and 22 it is responsible for the management of United 23 States' several different outer continental 24 shelves. OCS. And this is the legal jurisdiction 25 that the US has over these waters for all their</p>

<p style="text-align: right;">Page 5</p> <p>1 natural resources. A primary example of this is 2 oil and gas. 3 The main region for these bond 4 requirements that we're going to be talking about 5 today is within the Gulf of Mexico. The same bonds 6 also exist for a few platforms off the coast of 7 California, where we also engage with the Pacific 8 OCS and the BOEM has jurisdiction over both. 9 It's important to potentially get to 10 know these guys as well, because we're only going 11 to see more from that office as the U.S. 12 continues to develop solar -- or, excuse me, not 13 solar -- wind farms offshore within this same 14 jurisdiction and this same Bureau will have 15 control over those leases and payments thereof. 16 It's important to note -- the last 17 bullet point here is that the director and the 18 leader of the BOEM is a presidential appointee, so 19 we have had some fluctuations with -- with the 20 Bureau and how they intend to engage the oil and 21 gas environment based off of who that president 22 has appointed as the director. Every region has 23 its own director as well as the BOEM having an 24 overall director. So with that, we'll kind of 25 jump in here.</p>	<p style="text-align: right;">Page 7</p> <p>1 second only to the IRS. So it's a huge source of 2 revenue for the United States Government and it's 3 a pretty big deal. 4 Any other comments there, Jason and 5 Pat? 6 So one of the things I'll cover is -- 7 is, you know, what are these types of bonds? So 8 the types of bonds that we're going to be talking 9 about today -- we're just going to stick with the 10 government bonds. So these are the bonds, you 11 know, in the same way that, you know, you do 12 anything for the government, a lot of the surety 13 industry is led by government bonding. The same 14 exists here. 15 Since this is federally-owned leased 16 territory, federally-owned waters, these bonds not 17 only guarantee the decommissioning of the 18 structure that is out there, but also guarantee 19 payment of royalties. Often it's only referred to 20 as a decommissioning guarantee, which is kind of 21 the primary guarantee that those sureties are 22 underwriting, because royalties are usually taken 23 off the top. But, you know, these bonds are 24 pretty extreme in nature. You know, we're talking 25 about a long tail decommissioning guarantee where,</p>
<p style="text-align: right;">Page 6</p> <p>1 So you -- you may be thinking -- if 2 you're not familiar with the space -- well, gosh, 3 how much really goes on, you know? What is this 4 about? If you were to take this same map -- this 5 map on the right here is a -- kind of a snapshot 6 of the infrastructure that exists off the coast of 7 Louisiana. 8 It's important to note that the United 9 States' jurisdiction begins three miles offshore 10 and three miles inshore is considered State 11 waters, except for Texas, which is three leagues. 12 That was a negotiation way back when. 13 But, you know, what are we talking 14 about here? If you look at this map, the Bureau is 15 responsible for all the infrastructure and 16 associated revenue in the federally -- 17 federally-regulated waters. And it's a lot more 18 than people think. You know, approximately 30% of 19 domestic production in terms of oil and gas comes 20 out of the Gulf of Mexico. It's a huge region of 21 -- of oil and gas production. It's responsible 22 for, you know, hundreds of thousands of jobs. And 23 the revenue associated with the BOEM -- I heard a 24 stat one time -- the revenue associated with the 25 royalties and the lease sales from the BOEM is</p>	<p style="text-align: right;">Page 8</p> <p>1 you know, we're making a -- a prediction with our 2 bond approval today for decommissioning that might 3 not occur for 10, 20 years. So not too dissimilar 4 from those familiar with the mining industry, the 5 waste industry. It's a lot like that in terms of 6 longevity. These are non-cancellable instruments. 7 And luckily -- as you'll see here in a few 8 slides -- bankruptcy doesn't constitute default, 9 but, boy, bankruptcy has caused quite a bit of 10 headache as of recent in this region. 11 So we'll go to the next slide here. 12 This is a -- this is public information that was 13 collected by Haynes & Boone, a local law firm here 14 in Houston who is very active in the bankruptcy 15 space. They stopped running this after Q4 2021, 16 but there's certainly been more bankruptcies since 17 then in the last three years. But this shows both 18 onshore and offshore the cumulative bankruptcies 19 in the E&P space, the exploration and production 20 space, the upstream space. 21 And, you know, surety bonds exist in 22 every way, shape and form throughout E&P space, 23 regardless of your state of operation. And so not 24 only with our issues in the Gulf of Mexico, but, 25 you know, this whole field of business has</p>

<p style="text-align: right;">Page 9</p> <p>1 experienced a windfall of bankruptcies and 2 bankruptcy rulings, some of which we'll touch on 3 here later.</p> <p>4 But if you go to the next slide, we 5 can see these are the prominent bankruptcies that 6 have occurred within the OCS. So this would be -- 7 this was actually generated by the BOEM to show 8 the cause for a need to have a rule change. You 9 know, we are kind of in uncharted territory here 10 in a sense that, you know, we've had quite a few 11 bankruptcies. You know, if you think about surety 12 as a 100-year-old industry, well, you know, the 13 last 10 to 20 years has been rather tumultuous for 14 this space.</p> <p>15 You know, you can kind of see how 16 these coincide with historically low periods of -- 17 of commodity prices. And -- and two of the major 18 bankruptcies that occurred were Fieldwood and Cox, 19 which had, you know, far reaching implications 20 that we're still -- still dealing with today, but 21 those were only as recent as 2020 and 2022. So a 22 lot of what the industry has learned from those 23 two bankruptcies is still being applied up the 24 chain with -- with not only your field 25 underwriters, but then your home office</p>	<p style="text-align: right;">Page 11</p> <p>1 or -- or they sold to a new buyer in which all 2 assets and liabilities were -- were assumed.</p> <p>3 Starting with Fieldwood, and then Cox, 4 there -- there was a new strategy put in place 5 from the attorneys and consultants that said, Hey, 6 you know what? Sureties will take care of all the 7 liability. What we'll do is create a divisive 8 merger and essentially get to cherry pick the 9 assets and stick the sureties and any predecessors 10 with the liability. Therefore, this -- this is 11 where everyone started generating heartburn trying 12 to figure out, okay, we used to make a lot of 13 money; now we're not. So how do we move forward on 14 this space?</p> <p>15 PATRICK HENNESY: Yeah. And -- and for 16 people who aren't familiar with this space, the -- 17 you know, the -- the potential, you know, the 18 liability that was out there just on those two 19 cases is roughly \$2 billion. We're not saying 20 that's -- you know, those -- those cases are very 21 different from each other. And the bonds 22 supportive for -- for both of those cases are very 23 different. We're not saying the industry is going 24 to have \$2 billion of losses, but the -- you know, 25 there is loss activity at a higher -- at a higher</p>
<p style="text-align: right;">Page 10</p> <p>1 underwriters, all the way up to, you know, 2 reinsurance mandates, you know, still trying to 3 understand, okay, what is the best way to manage 4 this fallout moving forward.</p> <p>5 PATRICK HENNESY: So this timeline, 6 John, you know, one way to think about it from an 7 underwriting perspective is up until the Fieldwood 8 and Cox bankruptcy that John just referenced, it's 9 really a low frequency, a low -- low frequency, 10 low severity product until this timeline starts to 11 come into play where you see more frequency, but 12 still the lack of severity. That severity came to 13 -- came to roost with a couple of -- of judicial 14 precedents that were set as part of the Fieldwood 15 case.</p> <p>16 But, you know, the underwriters 17 utilize a -- you know, a blended approach for 18 underwriting of credit and -- and asset-based 19 underwriting, which I think Jason is going to 20 touch on.</p> <p>21 JASON KILPATRICK: Yeah. And -- and to 22 add to that, Pat and John, I mean, the -- the 23 historic strategy was we used to utilize BK as an 24 exit strategy to get off these obligations. 25 Several of these accounts, they simply reorganized</p>	<p style="text-align: right;">Page 12</p> <p>1 severity than what has historically been incurred 2 by the industry as -- as the underwriting 3 methodology changed due to the -- the -- the 4 components that Jason just walked through.</p> <p>5 JOHN HOHLT: Great. So we'll get into 6 the rule change here on the next slide.</p> <p>7 So, obviously, you know, these -- 8 these bonds exist to guarantee the decommissioning 9 of these assets so that the United States taxpayer 10 doesn't have to pay for a bankrupt company's 11 orphaned platform, well, pipeline, you name it. 12 So, you know, this is text taken directly from 13 BOEM here. But this is more or less what they 14 came up with as the proposed rule change. And, you 15 know, they've seen the writing on the wall, too. 16 And they said, right, okay, some of this liability 17 is coming back to us. Some of it -- you know, 18 we're worried that the American taxpayers are 19 going to have to start dishing out money to take 20 care of this.</p> <p>21 And so what they said is -- is, all 22 right, you know, we've identified approximately 23 \$14.6 billion worth of assets for companies that 24 are less than investment grade and that's what 25 we're trying to cover. And according to their</p>

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1 estimates, there's about \$6.97 billion worth of
 2 new supplemental financial assurance needed and
 3 they're going to try to implement it with this
 4 rule change.
 5 And you could say to yourself, okay,
 6 great, you know, NASBP, surety underwriters and
 7 brokers, you know, gear up, you know, it's about
 8 to be a great few years. We have, you know, 14
 9 million -- \$14 billion worth -- potentially \$7
 10 billion worth of new opportunities here. How do
 11 we go about this?
 12 And, you know, there's -- there's some
 13 sentiment that it could be good for the industry.
 14 There's others that think, you know, hey, this is
 15 going to be a catalyst moment that accelerates
 16 further losses more than it prevents. And so, you
 17 know, I'm not here to make a crystal ball
 18 prediction on what's going to happen one way or
 19 the other, but we can go to the next slide and
 20 give you an idea of what that breakdown looks like
 21 and look and see what we're dealing with as the
 22 industry.
 23 So you saw in that last slide there
 24 was those two pictures of tri column regulation.
 25 There's about 140 pages of that. But if you were

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1 really to just distill it down, this is what it
 2 comes to. And -- and if you think about it in a
 3 flowchart method, this is what you need to ask
 4 yourself and ask your client.
 5 So, One, are you investment grade?
 6 Pretty simple question there. And the definition
 7 of investment grade is -BBB by S&P and Fitch, Baa3
 8 by Moody's. And that can either be a rating that
 9 already exists with these third-party credit
 10 analysis firms; or, it could be one that is put
 11 together on a synthetic basis by BOEM using S&P
 12 Global Credit Analytics. So, you know, I think a
 13 lot of underwriters are familiar with that
 14 software and that rating analysis. But generally
 15 that's the first step. And if you check that box,
 16 you know, congratulations for you, you know, kind
 17 of no further changes to the status quo.
 18 There wasn't much talk about, okay,
 19 can I release the bonds that I have because I'm
 20 investment grade now? BOEM was slow to answer
 21 that question. But at least there is no change
 22 for you going forward. So then -- okay.
 23 So if the answer is, Yes, no
 24 supplemental financial assurance required. If the
 25 answer is, No, you get one more test out and that

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1 is, you know, do you have a 3-to-1 reserve to
 2 decom ratio. Basically stating, you know, does
 3 the present value of the lease that you're on in
 4 terms of oil and gas value with that specific
 5 lease, is it three times greater than the
 6 decommissioning expense for that same lease? That
 7 one's a bit hairy.
 8 PATRICK HENNESY: So to put that in --
 9 to put that into a different couple of words, the
 10 future value, talking about how that's derived,
 11 that's the present value of today -- of the future
 12 cash flows in today's dollars at a discount rate
 13 typically applied at -- at a factor of 10.
 14 So what that means is they're adding
 15 up all the future cash flows and bringing it to
 16 today's dollars for a specific lease. And that
 17 lease has a specific bond on it or decommissioning
 18 amount tied to it. So when you look at that 3-to-1
 19 ratio that John's talking about, it's do all of
 20 the future cash flows discounted to today's
 21 dollars equal three times as much as what it costs
 22 in today's dollars to decommission that asset?
 23 And if so, then a bond is required. It's another
 24 form of adverse selection for the surety industry
 25 that takes further opportunities off the table for

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1 Jason and myself as underwriters to utilize that
 2 asset-based underwriting approach on a single
 3 asset basis.
 4 JOHN HOHLT: Right. So there's -- if
 5 you look at it from the other lens, you know,
 6 Pat's right. It's an adverse selection on the fact
 7 that, you know, right off the bat we're dealing
 8 with non-investment grade companies, okay? That's
 9 fine. That exists quite a lot within surety. We
 10 can handle that. But then they take it a step
 11 further and say, right, not only is this a
 12 non-investment grade company, but the assets
 13 within that company that we want you to bond are
 14 less than their best -- they don't test out of
 15 this 3-to-1 reserve to decom ratio.
 16 A couple of other little important
 17 points as to that, you know, there's all different
 18 types of estimates for, you know, how do you come
 19 up with the -- the decom amount? How do you come
 20 up with reserves? You know, it's raised a lot of
 21 questions on -- you know, you could have three
 22 companies on the same lease, each with a different
 23 value for that reserve. You know, that question
 24 still remains to be answered. But one question
 25 they did answer is, okay, what decommissioning

<p style="text-align: right;">Page 17</p> <p>1 value are we going off of? That is the -- the P70 2 value, which basically means probability of 70% 3 that the number selected by the BOEM and its, you 4 know, sister bureau agency, BSEE, is -- is the 5 number chosen for that specific lease. 6 So, you know, if we -- if you run 7 through the whole thing, if you don't test out of 8 the investment grade and if the lease itself that 9 you own doesn't test out of the 3-to-1 ratio, you 10 then are required to place financial assurance on 11 that asset. One option that the government has 12 given is surety. And there's a three-year 13 phase-in period. 14 This rule has already been put into 15 effect, but a big asterisk that comes with that, 16 you know, there may be a change here with the new 17 president coming in January. We saw a very similar 18 situation with the second Obama administration and 19 another proposed rule change within the BOEM that 20 then got rescinded upon Trump's first presidency. 21 So I don't know if we'll see the same thing here, 22 but it -- it looks and smells like the same. 23 But we also have, you know, some 24 pending legal litigation. You know, there have 25 been several companies and even State agencies</p>	<p style="text-align: right;">Page 19</p> <p>1 there's preexisting bonds and a private -- we call 2 them private bonds, meaning non-government 3 related, in a transaction between a buyer and a 4 seller. 5 And one thing we should touch on real 6 quick here is that chain of title liability exists 7 in the Gulf of Mexico. So if Shell Oil, you know, 8 built and developed this platform and drilled 9 these wells in the 1960s, and it's now owned by, 10 you know, John Hohl Energy, and my company goes 11 bankrupt, you know, Shell Oil is still on the hook 12 there even going all the way back, you know, to 13 the inception. 14 And so what Jason was talking about 15 is -- is a solve that the private companies have 16 thought of was, okay, as a part of my disposition 17 of this asset, I'm going to require a private bond 18 between me and the buyer. And there's a good 19 chunk of surety out there that exists within this 20 private bond market that is also going to be 21 thrown into limbo, you know, with these rule 22 changes, until we get kind of clear advice from 23 the BOEM on how they're going to treat other 24 surety not in their name. 25 PATRICK HENNESY: So we have an element</p>
<p style="text-align: right;">Page 18</p> <p>1 that have sued the BOEM and the Federal Government 2 demanding, you know, a temporary injunction or a 3 stay in order to further dispute the 4 implementation of these rules. 5 So, you know, this could all be for 6 nothing. We don't know. But, you know, prepare for 7 the worst and hope for the best. 8 So on to the next -- 9 JASON KILPATRICK: John, something -- 10 something else to mention real quick is -- we 11 haven't touched on it really -- but there's the 12 private bonding in the Gulf of Mexico as well. I 13 believe there's a couple billion dollars of 14 private bonds out there that BOEM is not taking 15 into consideration. And so something to be -- to 16 be cognizant of is duplicative bonding and how 17 does that get resolved? Also, when it comes time 18 to call the bonds -- call the bonds in a 19 distressed situation, what bonds -- what bonds are 20 called first? The private bonds or the BOEM 21 bonds? And there's always dispute between that. 22 JOHN HOHLT: Yeah. Yeah. And good 23 point, Jason. 24 You know, in addition to that, you 25 know, what Jason is talking about is, you know,</p>	<p style="text-align: right;">Page 20</p> <p>1 of -- we have two elements of adverse selection, 2 as you pointed out, John, associated with this new 3 rule. 4 One, the investment grade piece and, 5 one, the individual asset piece. Then we have the 6 potential for all of it to become not, as a result 7 of -- of Trump's election to the White House. We 8 have some lack of clarity as it relates to order 9 of attribution of claims in the claim scenario 10 that Jason pointed out. And all of this to say is 11 there's regulatory risk and judicial risk 12 associated with this space that has been swinging 13 back and forth for the better part of eight years. 14 And it's caused -- capital does not 15 like -- you know, capital does not flock to the 16 uncertainty. In fact, it runs away. And you have 17 this judicial and regulatory risk that's been 18 swinging back and forth. You know, how are we, as 19 underwriters, supposed to -- to go forward and -- 20 and support an increase of 14, \$15 billion worth 21 of bonds in that environment? And that was the ask 22 from the BOEM to us so that -- is that a fair 23 summary. 24 JOHN HOHLT: Yes. 25 JAMES KILPATRICK: Yes.</p>

<p style="text-align: right;">Page 21</p> <p>1 JOHN HOHLT: And if we go to the next 2 slide here, I think we can touch further on some 3 of that uncertainty. 4 So, you know, listen, surety is -- we 5 all underwrite to a zero loss, but it's still, you 6 know, less than the perfect model. I think the 7 industry numbers are incredible, but you have 8 losses and we get that. And what I think we're 9 trying to say here is some of the losses and some 10 of the then legal proceedings out of these 11 bankruptcies is uncharted territory. 12 So Pat or Jason, do you-all want to 13 talk about 363 Sale through the main judge. Judge 14 Isgur up there? He is the presiding bankruptcy 15 judge for the South District of Texas, where a lot 16 of these bankruptcies have occurred. And some of 17 the rulings that have come out of his court, you 18 know, not only give underwriters raised hairs on 19 their neck, but it also has further implications 20 outside of just that specific bankruptcy. And what 21 are we getting into now as an industry? 22 So, Pat or Jason, do you-all want to 23 take either a 363 Sale example, which I think you 24 all touched on; or, what's kind of gone on in the 25 world of Falcon V and surety as executory</p>	<p style="text-align: right;">Page 23</p> <p>1 think can be tied to any other -- 2 PATRICK HENNESY: I'm not a lawyer. 3 JASON KILPATRICK: Right. Right. 4 PATRICK HENNESY: I'm not a lawyer, 5 but, yeah, it's part of a Chapter 11 proceeding. 6 It's a -- it's a select -- it's a select 7 liquidation proceeding inside of a broader Chapter 8 11 reorganization, a very specific element of the 9 bankruptcy code. I'm not an attorney. 10 JASON KILPATRICK: Correct. Likewise. 11 So going back to the 363 real quick, I 12 mean, in most cases, we -- we were used to 13 seeing -- especially in the early 2000s, all the 14 way up through 2014, essentially, we were seeing a 15 bunch of simple reorganizations, restructure the 16 debt, maintain everything, continue the -- your 17 P&A program, your plugging and abandonment 18 program. But things have changed. 19 And John had mentioned the Southern 20 District Court of Texas with Judge Isgur. Falcon V 21 was actually done out of, I believe, the Louisiana 22 bankruptcy court. And so point being, like -- like 23 Pat had mentioned, there's -- not only are we 24 dealing with regulatory risk, we're also dealing 25 with -- with adverse rulings from the courts. And</p>
<p style="text-align: right;">Page 22</p> <p>1 contracts? 2 JASON KILPATRICK: Well, I think -- go 3 ahead. Pat. 4 PATRICK HENNESY: Why don't you take 5 363. 6 JASON KILPATRICK: Yeah. 363, for no 7 one that knows, that's -- that's associated with 8 the bankruptcy code as it relates to essentially 9 liquidation, selling all the assets. And like I 10 mentioned earlier, the old process or the old 11 strategy was bankruptcy was not a bad thing. It 12 was a way for us to get off these obligations. 13 You would have a bidder come in via stalking horse 14 and -- and acquire essentially all the assets and 15 liabilities. 16 In this particular case, as it relates 17 to Fieldwood and Cox, in particular, Judge Isgur 18 decided that it's okay to take -- cherry pick the 19 assets and essentially spin off the liabilities 20 back to the predecessors. It -- it hadn't 21 happened for 20 to 30 years, I believe, since -- 22 since the mid '80s. And so -- and I believe 23 someone just asked a question -- yes. It is 363. 24 Chapter 7, pretty much that's part of the code -- 25 unless Pat disagrees -- I believe. 363 I don't</p>	<p style="text-align: right;">Page 24</p> <p>1 so those -- those are things we definitely need to 2 be on the lookout for. 3 JOHN HOHLT: So -- so I was going to 4 add here on Falcon V, so this is, you know, public 5 knowledge at this point. And I would suggest 6 anyone who's curious to look it up on your own 7 time. 8 But the United States Fifth Circuit 9 Court of Appeals, you know, ruled that a surety 10 indemnity agreement does not constitute or does 11 not qualify as an executory contract. And 12 basically what that means is that the indemnity 13 agreement doesn't survive through the bankruptcy 14 through to the new owner. And we have a lot of 15 cases right now in the oil and gas space -- Falcon 16 V was an onshore case. But, you know, we have a 17 lot of cases -- both onshore and offshore -- where 18 we have surety still in place, still providing the 19 necessary financial assurance to the local 20 government, but we have a principal on the bond 21 who is not an indemnitor and is not paying 22 premium, but is still receiving the benefit of 23 having that statutory coverage from the 24 preexisting surety prior to this day. 25 And so, you know, for obvious reasons,</p>

<p style="text-align: right;">Page 25</p> <p>1 that was contested to a very high level. Now, I 2 mean, you could -- it could go beyond that. It 3 could go to the Supreme Court. I don't know where 4 it's at. But, you know, Fifth Circuit Court of 5 Appeals at the state level is a pretty high court 6 and a very negative impact, and negative case law 7 that now exists out there for the whole of the 8 surety industry to deal with. 9 You know, I don't know if this is 10 going to come up again in the world of 11 construction or mining or waste, you know, these 12 other major surety silos. But, you know, it's not 13 off the table because of this case law. 14 Okay. I don't know if we had any 15 further questions to that. 16 KATE SHAMAPANDE: John, we did get 17 another question that came up. 18 Backing up to the new rule with the 19 PV10 valuation to test out of the bonding 20 requirement, what kind of price assumptions are 21 backed into PV10? 22 JOHN HOHLT: Great question. 23 KATE SHAMAPANDE: Could lessees face 24 additional bonding requirements based on the 25 changes in the price of oil; and if so, how long</p>	<p style="text-align: right;">Page 27</p> <p>1 average of the previous 12 months pricing that -- 2 that is published by NYMEX, and they basically add 3 that up, divide by 12, and that's the price deck 4 that they use to go forward. And lessees 5 definitely would be facing additional bonding 6 requirements based on those prices. 7 So should prices crater the government 8 is setting up a position where a company who does 9 not have bonding then is forced to post a number 10 of bonds during a down pricing cycle, which makes 11 it more challenging for that company to provide 12 the required financial assurance. And if they do 13 not, then it's unknown as to whether or not the 14 government is going to shut them in and cause a 15 bankruptcy event, which could result in all of the 16 negative things that we talked about around the 17 judicial proceedings. 18 So, John, it's in the public record, 19 you know, why don't you talk about the comment you 20 made in response to the government rules around, 21 it could be causing the problem that they're 22 trying to prevent? 23 JOHN HOHLT: Yeah. You know, I went on 24 public record with the Federal Government with my 25 response to these rule changes. And, you know,</p>
<p style="text-align: right;">Page 26</p> <p>1 lasting and/or severe would those changes need to 2 be? 3 JOHN HOHLT: So -- so that's one of the 4 main issues with that test out is -- is how -- you 5 know, we are still waiting for concrete feedback 6 from BOEM on how often are we going to be 7 retesting this? Is there a universal price deck 8 that everyone needs to be using? Right now 9 everyone can use their own price deck within the 10 laws of accounting, you know, based off of how 11 they want to determine, you know, NYMEX oil and 12 gas pricing. 13 And then how often are you going to 14 reset that? You know, the price changes every 15 day, price changes every second, you know, so -- 16 so if we're tying an extreme bond obligation to a 17 variable like commodity price, you kind of open 18 Pandora's box for, you know, an unlimited amount 19 of revisions. 20 I don't know if you want to add to 21 that. 22 PATRICK HENNESY: Yeah. The BOEM is 23 looking at SEC pricing, which, as John mentioned, 24 is governed by GAAP accounting rules, which 25 basically says you add the previous 12 -- the</p>	<p style="text-align: right;">Page 28</p> <p>1 it's -- it's almost like a Greek tragedy where all 2 the steps that the government is taking to prevent 3 this massive fallout, as far as decommissioning 4 obligations are concerned, you know, these 5 measures that they're taking are -- could 6 potentially accelerate the defaults that they're 7 trying to prevent, you know, by putting undue 8 stress on these oil and gas companies who struck a 9 deal 15 years ago with the seller that at the time 10 didn't contemplate financial assurance being 11 posted and paid for. 12 And it's really not even the premium 13 that's concerning. It's the collateral request 14 that would come from the sureties as a part of 15 their quotes. You know, they didn't -- they 16 didn't factor that into their purchase and sale 17 agreement, you know, 15 years ago when this deal 18 was struck. And so it's almost as if, you know, 19 it's a retraining of the deal in that sense. 20 But on the flip side, I -- you know, I 21 can understand where these sellers are coming from 22 and saying, Hey, BOEM, we trusted you to only 23 allow vetted and viable companies into the Gulf of 24 Mexico. And, gosh, we've had 30 bankruptcies since 25 2009, so, you know, your system isn't perfect</p>

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<p>1 either. And I think there is a more common ground 2 here that could be attained. But, you know, 3 asking for this and then saying, you know, okay, 4 we'll have a three-year phase-in period -- I mean, 5 a three-year phase-in period for, you know, \$7 6 billion worth of surety from subinvestment grade 7 operators on their less than stellar assets is a 8 bit of a backhanded compliment, if you will, from 9 the BOEM on what they expect here from the surety 10 industry.</p> <p>11 JASON KILPATRICK: Hey, John, has there 12 been a ruling yet on BOEM regarding the action if 13 these operators do not provide the financial 14 assurance in three years?</p> <p>15 JOHN HOHLT: Yeah, I mean, you know, 16 there's -- there's talk that, you know, shut-ins 17 would come. You know, it would be -- in my 18 opinion, it would be no different than if you were 19 out of compliance, you know, with your royalty 20 payments. You know, what actions does -- what 21 kind of sword can BOEM swing when they need to 22 swing it? And it is, you know, shut-in. But the 23 thing with that is, you know, how do you shut in 24 something with multiple co-lessees and you have, 25 you know, three that are doing everything by the</p>	<p>1 more slide for -- there we go.</p> <p>2 So, you know, a lot of the feedback 3 that we've been getting is -- you know, from the 4 market is, you know, can I trust surety bonds as a 5 viable instrument? You know, there's been people 6 who have said, Oh, well, you know, I've heard 7 this; you know, Hey, I made a claim on a bond and 8 so and so is not paying me. And it's like, well, 9 you know, I would -- I would trust the surety 10 market -- obviously I'm biased -- but I would 11 trust the sureties to pay a valid claim; however, 12 I think we can all agree that there's a lot going 13 on here, you know, as it relates to these 14 particular bankruptcies.</p> <p>15 These are not just simple -- these are 16 not just simple non-payments on a construction 17 project where, you know, a sub is -- is showing no 18 receipts from a general contractor. It's -- it's 19 highly disputed bankruptcy rulings. It's complex, 20 legal, drawn out battles between outside counsel 21 for both the bankruptcy creditors, the trustees, 22 and the obligees on these bonds.</p> <p>23 You know, I don't want to risk the 24 viability and reputation of the surety industry, 25 and I always kind of fight for them when I get</p>
<p>Page 30</p> <p>1 book and one who's not, you know.</p> <p>2 So one of the things that, you know, I 3 wanted to talk about, too, and that -- that rule 4 change I failed to mention, you know, that first 5 test out -- Katherine, if you go back -- was, are 6 you investment grade? So if you go back to the 7 waterfall there. There you go. If you're 8 investment grade or if one of your co-lessees is 9 investment grade, you know, okay, maybe I'm riding 10 the coattails of -- of a major here on my lease. 11 One thing that's important to remember, though, 12 is, you know, is that -- is that subsidiary under 13 that major on file with the BOEM? Is that 14 subsidiary investment grade? And that's kind of a 15 big gray area, too, Jason.</p> <p>16 It's like, you know, there's so much 17 gray area in this that hasn't been solved for. And 18 in that particular case, if I'm -- if I'm on a 19 lease with BP, obviously BP's parent Corp is 20 investment grade, but is their Gulf of Mexico 21 subsidiary investment grade? And how does the 22 BOEM classify that? And is that passthrough going 23 to qualify for other co-lessees? So, you know, 24 lots to dispute here.</p> <p>25 Katherine, I don't know if we had one</p>	<p>Page 32</p> <p>1 these questions, but it's -- it's not as binary as 2 people think.</p> <p>3 And then one of the things, too, is -- 4 go ahead.</p> <p>5 PATRICK HENNESY: Yeah, There's a 6 couple of things that go into that though, too, 7 right, John?</p> <p>8 I mean, one, who is the obligee on the 9 bond? The obligee on the bond is the United 10 States Department of the interior. So in the 11 event that the United States Department of the 12 Interior suffers actual damages and is responsible 13 for or incurs actual costs for performing work, it 14 is as simple as the sub who hasn't been paid by 15 the GC.</p> <p>16 And sureties -- you know, sureties 17 look to that to -- we're insurance companies at 18 the end of the day. Our job is to make you whole, 19 not provide potential unjust enrichment. We're not 20 just going to pay an allocated sum because you say 21 there's -- there's been harm. There has to be good 22 faith investigation of a claim and looking at the 23 merits of that claim and relating that back.</p> <p>24 And No, I would be: Are dollars out 25 of the door? If dollars aren't out of the door,</p>

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1 what are you making a claim for? So, you know, I
 2 hear what you're saying in terms of, you know,
 3 I've made this claim. But in some cases, sure,
 4 you've made a claim, but you haven't suffered any
 5 harm yet would be -- would be a response.
 6 But generally speaking we try to avoid
 7 unjust enrichment. We try to avoid moral hazard by
 8 paying to make whole as opposed to paying to then
 9 allow an obligee to take funds and spend as they
 10 will.
 11 JASON KILPATRICK: Right.
 12 Pat, real quick, you mentioned the
 13 order of attribution earlier. Do the -- do the
 14 predecessors have rights to the BOEM bonds in case
 15 of an adverse scenario? Or should -- because
 16 we -- we -- you and I have both experienced where
 17 BOEM has demanded a bond and then just issued
 18 those funds to the predecessors to go do the work.
 19 Shouldn't -- is that what the bond is intended
 20 for?
 21 PATRICK HENNESY: Well, I think if you
 22 look back to that timeline you would say, No,
 23 until the current director got in front of
 24 Congress and stated that the BOEM bond would come
 25 into play first.

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1 However, there's the concept of
 2 subrogation rights in surety where in the event we
 3 pay, we get to stand in -- in the shoes, and as a
 4 result of, we would have the ability to then look
 5 at the whole chain of title enforcing that chain
 6 of title to make the predecessors perform the work
 7 and -- and not -- you know, not receive any -- any
 8 more than is owed to them, which could be nothing
 9 underneath the CFR, which is the Federal code that
 10 governs the offshore continental shelf.
 11 So I would say that even -- even
 12 though the current sitting BOEM director --
 13 director stated that is -- that is the -- the
 14 intent of the go-forward rule, I don't think it
 15 necessarily has application from a judicial
 16 standpoint until a judge says yes or no.
 17 JOHN HOHLT: Yeah. And it's put in
 18 clear black ink within the CFR. You know, that --
 19 that was something that we had asked for ad
 20 nauseam.
 21 Okay. Talk to us about sinking
 22 funds -- here's a question: Talk to us about
 23 sinking funds required by sureties that are based
 24 on current decom obligations from the latest
 25 audit, and then continued funding based on

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1 long-term estimated decommissioning costs.
 2 Essentially collateralizing the surety initially
 3 and on a go-forward basis to fully collateralize
 4 the end of life cycle.
 5 So, yeah, what -- what -- that's a
 6 good anecdote there, Chris. Yeah. And that's one
 7 way of underwriting, right? It is -- you know, I
 8 think it's hard to say that there's been so many
 9 bad players in the Gulf that, you know, tomorrow's
 10 production is going to pay for today's
 11 decommissioning. And that rule can certainly apply
 12 to very large stout operators with stable credit
 13 history and that is still a model that exists.
 14 But a more popular model that's coming
 15 into place is one that Chris has alluded to which
 16 is, you know, providing some form of collateral
 17 upfront and then funding a sinking fund, either
 18 with the government or directly with the surety, a
 19 form of collateral, where essentially over the
 20 life of the property funds are put into an account
 21 or as collateral where then at the end of the
 22 life, you know, there's enough funds to cover
 23 decommissioning or other commiserate with --
 24 PATRICK HENNESY: And another --
 25 another way to augment that, too, is by

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1 incorporating any work that comes along. Because
 2 it all doesn't just come at once. You have a --
 3 you have a number of different assets that have
 4 different lives and different costs and different
 5 timing of plugging and abandonment and
 6 decommissioning.
 7 So as you're working through that
 8 portfolio of assets and liabilities, you have
 9 collateral and/or performance of the
 10 decommissioning that could come into play as well.
 11 So it's a little bit of a perform or pay --
 12 perform or fund collateral as you go along for
 13 your long-term deal.
 14 And that's John's point. And I think
 15 what Chris is alluding to is this is a way that we
 16 have been able to work with operators and provide
 17 surety support by setting out reasonable time
 18 frames to achieve the funding of decommissioning
 19 and/or the performance of decommissioning, which
 20 is ultimately what -- what we're guaranteeing.
 21 JOHN HOHLT: Katherine, I think that's
 22 the end of the presentation. But we're obviously,
 23 you know, open for more questions or comments
 24 or --
 25 KATE SHAMAPANDE: Okay. Well, I just

<p style="text-align: right;">Page 37</p> <p>1 want to remind everyone you can submit your 2 questions in that chat area or in the Q&A area. 3 And as John said, we're ready to take those 4 questions from the audience now. 5 While we're waiting for audience 6 questions to come in, I'd like just to see if each 7 of you have any words you'd like to say in closing 8 to kind of wrap up this topic for those that are 9 on listening. 10 John, is there anything you'd like to 11 say? 12 JOHN HOHLT: You know, I think one of 13 the things I've been talking about with the 14 industry is that we're in a bit of a Renaissance, 15 if you will, kind of a Dark Ages before the 16 Renaissance right now in the Gulf of Mexico space 17 and the BOEM and OCS space. And it's not too 18 dissimilar from, you know, where we were, you 19 know, about a decade ago with the coal industry. 20 And, you know, there are still plenty of good 21 sureties that write the coal business and a ton of 22 good operators out there in that space. And it's 23 a resource that we still need. Oil and gas is -- 24 are two resources that we still very much need. 25 And we're going through kind of this period of</p>	<p style="text-align: right;">Page 39</p> <p>1 go-forward basis is -- you know, is still being 2 worked out. 3 But the -- the decommissioning sinking 4 funds that -- that were brought up as a question 5 is a primary tool. How we look at this from a 6 credit analysis perspective, I think changes in 7 the industry with looking at real actual cost 8 dollars of decommissioning, looking at how those 9 are analyzed and presented by -- by our clients, 10 and how we look at the -- the totality of future 11 cash flow of a company and how that's analyzed by 12 the surety market and relate it back to the 13 decommissioning costs, for us to pre-qualify 14 somebody's ability to perform in the future are -- 15 are all present. We are collectively moving that 16 way in terms of -- of changing our analyses, 17 individually, and changing our terms and 18 conditions, individually. 19 But as John said, oil and gas are 20 extremely important to the United States, and 21 there's definitely a large taxpayer risk embedded 22 in it, which makes it a very strong opportunity 23 set for the surety industry to step in and really 24 kind of solve the problem and bridge the gap. 25 KATE SHAMAPANDE: And, Jason, before I</p>
<p style="text-align: right;">Page 38</p> <p>1 reorganization, right? Okay. We got over our 2 skis. Bankruptcies have occurred. You know, losses 3 will be paid. But how can we now carry forward 4 with this industry as it looks today and kind of, 5 you know, what are the new terms and conditions of 6 playing in this space? 7 KATE SHAMAPANDE: Patrick, would you 8 like to say anything in closing or to wrap up the 9 topic while we're waiting for questions -- see 10 what questions might come in? 11 PATRICK HENNESY: Sure. So the rules 12 that are put out there today, the proposed rules 13 that have now been passed, there's some -- you 14 know, there's some thought around a scaling back 15 of the magnitude of impact as a result of the new 16 President Elect coming into office. The -- you 17 know, and I think there will be some of that. 18 However, as John mentioned, there's 19 still lots of activity out there. There's still 20 other challenges that were outlined in this -- in 21 this presentation whether it be future regulatory 22 risk, whether it be future judicial risk. How we 23 solve this problem of -- you know, and it's not a 24 problem -- how we solve the opportunity so we can 25 collectively make money and remain profitable on a</p>	<p style="text-align: right;">Page 40</p> <p>1 come back to you, we did have a couple of 2 questions come in. 3 So one of the questions we had was, 4 Could you talk about how the BSEE P70 number is 5 derived? How often that P70 number is updated? 6 And what is the deterministic number used in the 7 absence of a P70? And could an increase in the 8 cost in the reclamation performance market result 9 in additional bonding requirements? 10 John, did you want to take that first? 11 You are shaking your head. 12 JOHN HOHLT: Yeah. Yeah. I think both 13 of these -- that's a lot. 14 KATE SHAMAPANDE: I know. It is a lot. 15 JOHN HOHLT: So real quick, for 16 everyone's -- you know, we use the acronym BOEM. 17 BSEE is the Bureau of Safety and Environmental 18 Enforcement, and they are -- think of them as the 19 sister company to BOEM. And they provide these -- 20 these P70 estimates, these probability 70 21 estimates for decom expenses on a lease-by-lease 22 basis, even on a pipeline-by-pipeline basis. 23 And so, you know, how often -- you 24 know, what is that deterministic number that's 25 used under P70? You know, that's clearly outlined</p>

<p style="text-align: right;">Page 41</p> <p>1 on the -- on the BSEE website if you want to get 2 into all of that. 3 But how often is it redetermined? You 4 know, right now we're kind of at a weird cycle. 5 You know, there is a huge update about three years 6 ago with regards to the -- to the BSEE numbers as 7 it related to shelf properties. You know, I should 8 say offshore properties in shallow waters. You 9 know, we don't have clear insight from -- from the 10 government on when these numbers are going to be 11 updated. Is it every two years, you know, to just 12 -- let's say no costs go up, but we're going to 13 make an adjustment every two years for inflation? 14 We don't -- we don't know. 15 And then, could an increase in these 16 reclamation performance -- can the reclamation 17 performance market result in additional bonding? 18 Well, yeah. I mean, it's -- P70 in theory is only 19 going to go up every year, you know, for inflation 20 and other cost adjustments, unless we come up with 21 a drastically cheaper way to decommission these 22 wells. You know, in theory, that number could go 23 up and that would result in more bonding. 24 KATE SHAMAPANDE: Jason or Patrick, did 25 you have anything you wanted to add to that?</p>	<p style="text-align: right;">Page 43</p> <p>1 indemnity agreement -- protecting the indemnity 2 agreement's validity throughout the life cycle of 3 a potential bankruptcy and trying to avoid, you 4 know, what would have -- you know, what occurred 5 in the Falcon V bankruptcy, and, you know, limit 6 some of the -- the go forward potential damage as 7 a result of that judicial outcome as it stands at 8 least today. 9 KATE SHAMAPANDE: Does anyone want to 10 add anything else to that? 11 No? Okay. 12 The next question we got -- at first 13 they just are saying that the panel has done a 14 great job articulating some of the cons that are 15 proposed -- of the proposed rule change. Given 16 the large losses in the Fieldwood and Cox cases 17 that were referenced at the start of the 18 presentation, are there any positives for the 19 surety industry or should the new rules be seen as 20 a welcomed development specifically in the oil and 21 gas space? 22 JOHN HOHLT: Yeah, so I'll answer a 23 part of that. 24 KATE SHAMAPANDE: Thanks, John. 25 JOHN HOHLT: I think that absolutely I</p>
<p style="text-align: right;">Page 42</p> <p>1 JASON KILPATRICK: No. No. John 2 nailed that one. 3 KATE SHAMAPANDE: Okay. 4 Our next question that came in is in 5 regards to indemnity. So the surety's indemnity is 6 good up until they have to go to bankruptcy court 7 and then it's not valid as far as the most recent 8 judgment that we've discussed. Is -- is that a 9 correct synopsis of -- of what we've talked about 10 or is there something else there? 11 PATRICK HENNESY: I'd encourage you to 12 go talk to a lawyer, but I think there's been some 13 -- I think there's been some good -- some good 14 analysis that's been put out about the Countryman 15 test as it relates to surety indemnity agreements 16 being construed as executory contracts or 17 otherwise. 18 I would say that one of -- at least 19 some of the takeaways that we've worked with, John 20 and other brokers, and with the SFAA and the 21 Energy Working Group that both Jason and I sit on, 22 you know, we've worked out -- you know, we've 23 looked at utilizing different bond forms and 24 different bond language to help end that cap and 25 ultimately arrive at a position that protects the</p>	<p style="text-align: right;">Page 44</p> <p>1 like the idea of a rule and the status quo is not 2 acceptable. We need kind of more clearcut 3 direction as an industry and then -- and then for 4 our fellow, you know, clients in the space, you 5 know, who we indemnify. So that is all very 6 welcome. I think a lot of what -- this proposed 7 rule change, though, has, you know, answered a lot 8 of questions, but it also generated just as many 9 questions as it answered. 10 There -- the positives from this rule 11 change, yeah, there will be new surety 12 opportunities for, you know, the brokers and 13 producers to pursue and for the underwriters to 14 approve and underwrite, you know. And there's 15 definitely an opportunity here for money to be 16 made if it's done in the correct manner. 17 But, again, you know, it's -- it's a 18 double-edged sword here because this is a rule 19 applicable to everyone except for investment grade 20 companies. And so right off the bat, you know, is 21 it going to be a net positive or a net negative 22 for the oil and gas industry and for the surety 23 industry? I mean, sureties -- I think one of the 24 important things to point out and that BOEM never 25 really contemplated is, you know, if they're</p>

<p style="text-align: right;">Page 45</p> <p>1 asking us for \$7 billion worth of surety, you 2 know, we could say no to all \$7 billion. You know, 3 we don't have to write a single -- another bond in 4 the Gulf of Mexico. And so it's really up to us 5 to determine, you know, what a good client is and 6 what a good underwriting metric is going forward. 7 The ball is in our court. 8 KATE SHAMAPANDE: Jason or Patrick, did 9 you want to add anything to that? 10 JASON KILPATRICK: No. I mean, one of 11 the few opportunities -- and we don't look at this 12 from -- from a premium perspective. We look at it 13 from a risk perspective. But, I mean, the market 14 has firmed up. You do have certain carriers 15 exiting the space. And so, I mean, that -- that 16 does allow for higher rates, stronger security 17 structures. But nonetheless, I mean, we still -- 18 as an industry, we -- we must stay disciplined in 19 this approach. 20 PATRICK HENNESY: Yeah, I'd second 21 that, and state, you know, expertise in this space 22 is -- is necessary in underwriting it, from my 23 perspective. You know, really understanding the 24 -- the -- the commodity volatility, looking at how 25 that impacts in a short and long-term basis,</p>	<p style="text-align: right;">Page 47</p> <p>1 squeeze out smaller operators making the 2 investment grade companies larger? 3 Does anyone have thoughts on that? 4 JASON KILPATRICK: Yeah. The answer 5 is, Yes. I mean, they could definitely squeeze out 6 the smaller operators and create what -- what I -- 7 what I define as an oligarchic industry where you 8 only have select players in there who don't need 9 the bonds or don't have -- have no interest in 10 working with the surety. So, yeah, there is risk 11 there. 12 And also adding -- adding to that real 13 quick before we run out of time -- Pat alluded to 14 it earlier -- the regulatory and judicial -- 15 judicial risk. But we also need to -- we're 16 talking about depleting assets here so if these 17 companies aren't able to replace those reserves, 18 who's going to want to invest hundreds of millions 19 of dollars with an adversarial regulatory and 20 legal environment? 21 So, I mean, there -- there -- there 22 are definitely concerns. And private equity firms 23 and investors don't want to fund plugging and 24 abandonment expenses upfront, so those are things 25 we have to be concerned with.</p>
<p style="text-align: right;">Page 46</p> <p>1 understanding how these rules are put together and 2 how they impact you, understanding what has 3 happened in the past and learning from that and 4 going forward. And, you know, also, I think 5 there's a -- you know, there is a way to 6 underwrite this that makes sense and can -- can 7 allow us to -- to all make money. 8 The -- the -- the point of John -- 9 that John made around we can say, no, not 10 everybody qualifies for a surety bond, and that is 11 -- that's good. That's a -- that's a benefit that 12 we provide as surety underwriters. So not 13 everybody receiving a bond is also a good thing. 14 So it's -- it's about how we pre-qualify companies 15 into the space and how we protect our own balance 16 sheets, our reinsurers' balance sheets, and 17 ultimately look at long-term profitability in this 18 space. 19 KATE SHAMAPANDE: We did get another 20 question that just came in as well. 21 With surety ultimately holding the 22 capacity that BOEM and oil and gas companies need, 23 how would companies operate if they can't obtain 24 surety capacity? Will the new regulations then -- 25 or, is there the possibility that they could</p>	<p style="text-align: right;">Page 48</p> <p>1 KATE SHAMAPANDE: All right. Well, it 2 looks like those are all the questions we've 3 gotten so far from the audience. 4 Jason, did you want to say anything in 5 closing, since we didn't get to you before? 6 JASON KILPATRICK: No, I just added it 7 right there so -- 8 KATE SHAMAPANDE: All right. Well, I 9 just want to thank all -- all of you, John, Jason 10 and Patrick, for being on with us today and just 11 sharing information on these updates, I want to 12 thank everyone that was on and attended as well. 13 And I just want to remind you to take a couple of 14 minutes and complete that evaluation of today's 15 virtual seminar. Again, as I mentioned before, it 16 is available on that virtual seminar page. It's 17 located directly below the link you used to enter 18 either the live virtual seminar today or to access 19 the recording. Your feedback is extremely 20 important to NASBP staff and the editorial 21 planning group as we put together future 22 educational offerings, so, please, just take a 23 couple of minutes and make sure to put your 24 feedback in there. 25 That does conclude this NASBP virtual</p>

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1 seminar. You may now disconnect. Thanks everyone.
 2 (End of recording.)
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 7
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 10 of Texas, do hereby certify to the following:
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