

Bonding Reform: Protecting Taxpayers, Lands, and Waters.

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The Bureau of Land Management (BLM) allows companies to operate on any number of federal leases in the country — often covering hundreds or thousands of wells — if they post a single nationwide bond of as little as \$150,000. **Wells tapping into federal minerals can occupy federal land or can be split-estate, occupying tribal or private lands.** These bond amounts are minuscule compared to the average cleanup costs of between \$20,000 and \$140,000 to plug and reclaim a single well. At least 99.5% of federal wells carry bonds that are insufficient to cover the cost of reclamation.¹ As a result of this and other policies, many federal wells are not plugged and reclaimed for years or even decades after production ends, and in some cases only after Congress appropriates funding for cleanup. In order to hold oil and gas producers accountable, bonding rules must be updated by BLM in a timely manner so that taxpayers are not responsible for cleaning up the mess, and to ensure our lands are habitable for present and future generations.

The Case For Bonding Reform

The Department of the Interior and the Bureau of Land Management have a statutory obligation under the Mineral Leasing Act to require adequate bonds:

“The Secretary [shall] ... by rule or regulation, establish such standards as may be necessary to ensure that an adequate bond, surety, or other financial arrangement will be established prior to the commencement of surface-disturbing activities on any lease, to ensure the complete and timely reclamation of the lease tract, and the restoration of any lands or surface waters adversely affected by lease operations after the abandonment or cessation of oil and gas operations on the lease.”²

Yet, **bonding rules have not been updated in over 60 years.** These amounts have not been increased to address skyrocketing inflation rates, let alone address the real costs of plugging and reclamation.³ Although BLM has the authority to increase bonds over the minimum amounts set in the rules, they seldom do — 82% of bonds are set at minimum amounts.

Updating bonding rules is also a common sense and popular measure supported by people throughout the West. 91% of participants in a Colorado College poll said they support placing the onus on companies rather than governments to fund restoration following drilling.⁴

¹ Government Accountability Office. (2019). OIL AND GAS: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells. (GAO Publication No. 19-615).

² 30 U.S.C. § 226(g) - Lease of oil and gas lands

³ See <https://www.gao.gov/products/gao-19-615>

⁴ See <https://www.coloradocollege.edu/other/stateoftherockies/about-the-current-project/2021-state-of-the-rockies-project1/2022%20State%20of%20the%20Rockies%20Poll%20Findings.pdf>

- The typical reclamation cost for a low-cost well is \$20,000, and \$145,000 for a high cost well, while the average value of a bond held by the BLM is a mere \$2,122 per well.⁵
- There are more than 2.6 million unplugged onshore wells in the United States. It is estimated that it would cost \$280 billion to plug onshore wells. This does not include the estimated 1.2 million wells that are undocumented.⁶
- The rate of oil and gas companies going bankrupt is increasing—leading to an unchecked number of abandoned wells. Oil costs plummeted in 2020, and more than 100 oil and gas companies declared bankruptcy. With bonding levels so low, it’s fairly painless financially for companies to relinquish any existing bonds and abandon their wells, leaving taxpayers to pay the outstanding balance not covered by the bond.⁷
- As a result, wells can remain idle and abandoned for years or decades before they are plugged and reclaimed. Records have identified 5,100 wells that have been idle for seven or more years and GAO found 2,313 of these have been idle for more than 25 years.⁸
- Getting these wells onto the orphaned well list is a prelude for the BLM to plug the wells and reclaim the sites. The current process of declaring them officially orphaned, which requires the BLM to demonstrate that no financially responsible party can be found, can take decades.

Proposed Rules and Recommendations for Interim Guidance

1. Full Cost Reclamation Bonds Required for Any New APDs Developed on a Federal Lease

- a. A rate of \$15/foot, adjusted for inflation, is a sufficient amount and consistent with studies and past experiences of plugging and reclamation work completed by state and federal agencies.⁹
- b. A tiered per well bond system would also be effective; studies found that as well depth increases by 1,000 feet costs should increase by 20% to cover full costs of reclamation.¹⁰

2. Surface Reclamation Costs Included in Bond Amount

- a. Surface reclamation costs should be included in bond amounts; alternatively, BLM could create a separate surface reclamation bond: minimum individual bonds set at approximately \$10,000 per well plus an additional \$2,000 per acre of disturbed land.

3. Phasing in Full Cost Bonding for Existing APDs

- a. The lease bond rules amendments should phase in to apply to existing wells and infrastructure. Operators should be required to calculate a full-cost bond amount with assistance from an engineering review and cost analysis.

⁵ Government Accountability Office. (2019). OIL AND GAS: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells. (GAO Publication No. 19-615).

⁶ See <https://carbontracker.org/reports/billion-dollar-orphans/>

⁷ See <https://www.doi.gov/sites/doi.gov/files/report-on-the-federal-oil-and-gas-leasing-program-doi-eo-14008.pdf>

⁸ GAO-11-292

⁹ See Anderson, Coupal and White (2009) (finding that the costs of plugging a sample of 225 wells in Wyoming averaged \$10.50 per foot of well depth (\$13.18 USD in 2021 dollars).

¹⁰ See <https://pubs.acs.org/doi/10.1021/acs.est.1c02234>

- b. Operators should post additional bonds within one year of the effective date of the new rules.
 - c. New bonding requirements should apply to any transfer of leases, a time when companies often try to offload reclamation liabilities on smaller companies less capable of fulfilling cleanup obligations. The new bond should be posted with the BLM before the agency approves a lease transfer.
- 4. Application to Tribal Minerals**
 - a. BLM should ensure that bonding rules are implemented for tribal mineral leasing and permitting.
- 5. Bond Adequacy Reviews**
 - a. To guarantee bond adequacy, reviews should be conducted at least every five years, as suggested in current BLM policy.
 - b. There should also be bond reviews when wells are idled or transferred to ensure that bonds are sufficient to ensure reclamation, similar to what the State of Wyoming requires.
- 6. Reclamation Standards**
 - a. Clear reclamation standards should be implemented to guarantee more timely and effective reclamation. Consistent national reclamation standards are needed for the oil and gas industry.
 - b. Reclamation should be judged successful once a diverse, self-sustaining, native plant ecosystem has been established in the affected area.

For more information contact:

Sarah Hunkins, WORC DC Representative, shunkins@worc.org, 334-467-2050