



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

New Mexico State Office
1474 Rodeo Road
P.O. Box 27115
Santa Fe, New Mexico 87502-0115
www.blm.gov/nm



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To: DMs and FMs

From: State Director

Subject: Updating the New Mexico Bureau of Land Management's (BLM) Policy on Bond Amounts for Active Wells and Leases; Coordinating with WO IM 2007-192, Priority Ranking for Orphaned and Idled Wells; and WO IM 2008-122, Oil and Gas Bond Adequacy Reviews; and Section 349(b) of the Energy Policy Act of 2005 (EPAct).

Program Areas: Fluid Minerals Leasing

Purpose: This Instruction Memorandum (IM) provides the Bureau of Land Management (BLM) New Mexico State Office guidance to District and Field Offices regarding three distinct but related topics:

- A. Determining the appropriate minimum bond level of a Federal oil and gas lease;
- B. Identifying shut in (SI) or temporary abandoned (TA) wells that should be plugged; and
- C. Priority ranking for orphaned and idled Federal wells, as per WO IM 2007-192, dated October 4, 2007 and WO IM 2008-122.

Policy/Action:

A. Bonding: It is the policy of the BLM to require an operator to maintain a bond that is adequate to ensure compliance with the BLM's operational requirements, as well as the plugging of the wells, removal of existing facilities, remediating environmental damage (such as spills), and reclamation costs within the lease. It is the responsibility of the Authorized Officer (AO) to determine the appropriate bond amount for existing and proposed operations within the lease.

There are events which serve as markers to review bonding adequacy:

- Receipt of a new application for permit to drill (APD);

- An operator having a history of non-compliance (including non-payment of royalties); or Secondary/enhanced recovery unit reviews;
- Idle/inactive well reviews;
- SI/TA well reviews; and
- Receipt of a request for a change of operator.

When any of the five events described above occurs, the field office is instructed to review the operator's current bonding amount, and determine whether or not the level is appropriate to cover the estimated total cost to plug existing wells, reclaim well sites and facilities, and restore the surface. If the bond amount is insufficient to cover these costs, the BLM may require the operator to increase their bonding to the appropriate level necessary to cover the liabilities (the bond amount may not exceed the total estimated costs). You should contact the New Mexico State Office Post-Lease Adjudication Team (Team 2) with your conclusions. Team 2 is authorized to make the actual demand for a bond increase. Note: An operator's bond coverage does not need to cover all operational liabilities but must be of an appropriate and sufficient level to deter default.

When Team 2 receives a request for the transfer by assignment of lease record title interest and/or operating rights, they will notify you of the request. You are instructed to perform an analysis of the assignee's increased potential liabilities, and determine the appropriate amount of bonding required. You must then provide your recommendation to Team 2. Team 2 will inform the assignee that approval of the assignment is subject to the bond increase.

In any case, the Field Office and Team 2 must work together to share information and coordinate the response. As stated above, it is the responsibility of the Authorized Office to ensure bonds are adequate to cover plugging and surface reclamation costs.

DETERMINING BONDING AMOUNTS: We believe it is important to consider the following factors when determining the proper bonding level:

- The number and condition of any unplugged wells, whether active or inactive, and the condition of the well site(s) and facilities;
- The cost of plugging and reclamation in relation to the operator's corporate financial strength and available resources;
- The ratio of active to inactive wells;
- A history of operator noncompliance, including any outstanding assessments; and
- A history of bad faith by the operator in their conduct of lease operations, including any outstanding royalty payments or unpaid assessments.

The estimated cost of plugging and reclamation can be calculated based on field office records of an operator's well count, their depths, as well as the acreage disturbed by well pads and access roads. Other considerations such as compliance history can also be used to develop index factors for determining appropriate bonding levels. Currently, the average cost to plug a well is around \$8 per linear foot of well depth; the average cost of surface reclamation is about \$3,500 per acre.

These average costs may vary widely depending on regional cost differences and equipment availability.

Once the plugging and reclamation costs have been determined, the other factors may be considered. These factors are more or less subjective, and will require more documentation to support a demand for a bond increase.

Your recommendations to increase an operator's bond should be forwarded to Team 2, with adequate justification so it may withstand a potential appeal. Keep in mind that the bonding amount may not exceed the “. . . *total of the estimated costs of plugging and reclamation, the amount of uncollected royalties due to the [Minerals Management] Service, plus the amount of monies owed to the lessor due to previous violations remaining outstanding.*” (43 CFR 3104.5(b)).

Bear in mind that bond amounts may also be *decreased* if the AO determines that the operator has reduced their liabilities sufficiently by taking actions to plug wells, reclaim surface disturbances, etc. The amount of the bond reduction would be commensurate with the dollar value of the work performed. The Field Office would coordinate the bond reduction with Team 2 using a mechanism similar to the process used for a bond increase.

For Indian oil and gas leases, the Bureau of Indian Affairs (BIA) is the AO for determining appropriate bonding levels. As such, if requested by the BIA, the appropriate Field Office will provide assistance as necessary.

In addition, when an operator seeks approval of a secondary/enhanced recovery unit agreement, you should consider requiring a separate unit bond. The unit bond amount should be based upon the appropriate considerations discussed above, and take into account the total existing bonding of Federal or Indian leases that will be committed to the unit, and any bonding the Environmental Protection Agency holds for the proposed injection wells.

B. Shut In and Temporarily Abandoned Wells: In the past, the BLM has approved operator requests to place wells in SI or TA status, often without requiring sufficient justification. Some Field Offices do not routinely review lease records and require justification to maintain the wells as inactive. You must require an operator to provide sufficient justification before approving a request to TA a well for more than 30 days. If justified, the approval timeframe is for 1 year, which can be extended to a second year with adequate justification.

For wells that are in SI status, you must periodically conduct a field inspection to ensure that there are no surface or downhole problems, and contact the operator to ensure that there is a valid reason for retaining the well in SI status. The regulations at 3162.3-4 require the operator to promptly plug and abandon any well that is not capable of producing oil or gas in paying quantities, or which has no future use.

C. Idle and Orphan Wells: In accordance with WO IM 2007-192 and WO IM 2008-122, you have already identified Federal idle and orphan wells, and established a priority ranking of the wells based upon public health and safety, potential environmental harm, and other land use

priorities. This documentation further supports increasing a Federal operator's bond. We recommend that you conduct a similar analysis of Indian oil and gas leases and inform the BIA of your findings.

Time Frame: Immediately.

Budget Impact: Moderate.

The degree to which budget will be impacted depends considerably on what each office has already accomplished. Determining the proper level of bonding will require an assessment of the number and condition of existing wells and facilities on a lease, and identification of surface problems such as oil-stained soil and brine spills. This may require one or more field visits, as well as narrative and photographic documentation of the condition of the wells, facilities and surface.

Likewise, confirming whether or not a well is SI or TA may require one or more field visits, and may result in extensive correspondence with the operator.

Background:

A. Overall guidance for bonding is provided at 43 CFR 3104, Bond Obligations. The oil and gas lessee or operator must obtain a performance bond before we may approve any operations within a Federal oil and gas lease.

Bonds for operations on Federal minerals are categorized as "lease, statewide, or nationwide." The bond amount for each category is not less than \$10,000, \$25,000 and \$150,000, respectively. Bonds for operations on Indian oil and gas leases are also categorized as "lease, statewide, or nationwide" (25 CFR 211.24 for Tribal lands, 25 CFR 212.24 for Allotted lands). The bond amount for a lease bond is unspecified; for a statewide bond, it is \$75,000; and for a nationwide bond, it is \$150,000.

These minimum amounts may not be adequate to plug and abandon wells and reclaim the pads and roads associated with the wells. With sufficient justification, the BLM may require an increase in the bonding amount.

B. Current regulations allow an operator to retain inactive wells as long as there is a legitimate future purpose or beneficial use for the well. *This does not mean that a well can remain idled indefinitely.* Regulations at 43 CFR 3162.3-4(c), allow for a 2-year window of inactivity for TA wells: "...no well may be temporarily abandoned for more than 30 days w/o approval of the AO. The AO may approve TA status for 12 months, and when justified, one additional 12 month period." The AO should strongly consider requiring that a mechanical integrity test be conducted at least every 2 years for inactive wells on an extended timeframe. There are no prescriptive time frames for how long a well can remain SI.

C. Sec. 349(b) of the EPAct required the BLM to establish a means of ranking orphaned, abandoned, or idled wells sites for priority in remediation, reclamation, and closure, based on public health and safety, potential environmental harm, and other land use priorities.

Washington Office IM 2007-192 defined an 'idled' well as a well that has been nonoperational for at least seven consecutive years, and has no anticipated beneficial use. An 'orphan' well is defined as a well that has no responsible or liable party and there is insufficient bond coverage for plugging and surface reclamation. An 'abandoned' well has already been plugged, but the surface restoration has either not yet occurred, or has not yet been approved. This IM required offices to rank orphan and idled wells, using the guidance provided in several attachments to the IM.

Coordination: This guidance has been coordinated with the Field Offices and with the Washington Office, (WO310). Additional coordination with the appropriate BIA office may also be required.

Contact: Questions regarding this guidance should be addressed to Shannon J. Shaw, Supervisory Petroleum Engineer, at (505) 438-7640.

Authenticated by:
Diane M. Ellenburg
Staff Assistant

Signed by:
Tony J. Herrell
Acting

Distribution

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