



# Broken Promises

## *Oil & Gas Industry Leaves Taxpayers on the Hook for Billions in Clean-up Costs*

### Introduction

Despite agreeing—as a condition of their drilling lease—to fully clean up and plug well sites on federal lands once they are finished using them, oil and gas companies are regularly abandoning that obligation, **leaving U.S. taxpayers on the hook for as much as \$13.7 billion in future clean-up costs.**

That cost projection takes into account current bonding requirements, which are woefully inadequate, and the more than 96,000 “producing and service” oil and gas wells currently on federal public lands.



This report does not include wells that have already been abandoned or “orphaned” because, inexplicably, the Bureau of Land Management (BLM) at present does not publicly track the total number of abandoned or orphaned wells on our public lands—or the associated clean-up costs.

Almost 40 years ago, the Reagan administration recognized this risk to taxpayers and took steps to establish bonding requirements adequate to cover the actual expense of well clean-up. That effort, as with every one since, never crossed the finish line.

Today, oil and gas companies are reneging on their obligations more than ever due to the boom and bust nature of the industry, and strategic bankruptcies designed to avoid financial obligations. The result is companies gaming the system, extracting all the profits while offloading the enormous cleanup costs on the American public.

Both the Biden administration and Congress have the ability to fix this problem by instituting adequate bonding requirements. Failure to do so is nothing short of fiscal malpractice.

### Background

Prior to drilling on public land, oil and gas companies must promise to “completely” reclaim and restore their drilling sites.<sup>1</sup> This is not a radical concept. After all, cleaning-up after ourselves is something we are taught from an early age.

Companies are also required to post reclamation bonds before they drill. These bonds are supposed to act as an insurance policy. If a company abandons a drilling site, then, in theory, the bond is there to cover clean-up costs and ensure that oil and gas companies – not American taxpayers – are the ones who are covering those costs.

In fact, the law states clearly that the Secretary of Interior, “*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.*”<sup>ii</sup>

But that is not how system actually operates. It is taxpayers, not oil and gas companies, who bear a disproportionate amount of the financial risk associated with public lands drilling. The reasons why include:

- **The federal government has not updated its bonding rules since the 1950s and 60s:** The Bureau of Land Management (BLM), which oversees public lands drilling, has not updated its bonding rules since the 1950s and 60s. As a consequence, BLM has collected just over \$2,000 per well in bonds for all of the wells on public lands,<sup>iii</sup> which, at last count, numbered more than 96,000.<sup>iv</sup> During the Reagan Administration, BLM actually tried to strengthen its bonding rules to “*make the bonds commensurate with current restoration costs*” but never finalized a draft proposal.<sup>v</sup>
- **The federal government’s bonds “do not reflect reclamation costs” because BLM usually defaults to the minimum amount:** According to GAO, 82 percent of the BLM’s bonds “*remain at their regulatory minimum values.*”<sup>vi</sup> Those values—which, again, have not been increased since the 1950s and 60s—are just \$10,000 for one lease, \$25,000 for all leases/wells within one state, and \$150,000 for all leases/wells across the country.<sup>vii</sup> Thus, BLM is frequently requiring the same bond that it did in 1950 when well depth averaged 3,700 feet; today, modern wells may be drilled as deep as 10,000 feet.<sup>viii</sup>
- **Oil and gas companies are filing for bankruptcy and abandoning wells at an alarming rate:** This abandoned well problem is chronic and extends beyond federal lands. According to the Interstate Oil & Gas Compact Commission, there may be as many as 746,000 “orphaned” wells throughout the country.<sup>ix</sup> The Environmental Protection Agency (EPA) estimates that there are more than 3.2 million abandoned wells across the U.S.<sup>x</sup> These numbers are expected to rise in the coming years because of structural problems within the oil and gas industry (including unsustainable debt loads), which are forcing even more companies into bankruptcy.<sup>xi</sup>

It is bad enough that past administrations and Congress have let this problem fester for decades, but continued failure by the federal government to update its bonding requirements to reflect current clean-up and reclamation costs—and to follow the clear statutory intent of 30 U.S.C. § 226(g)—will end up costing U.S. taxpayers billions of dollars in clean-up costs.

## Key Findings

GAO recently found that, as of 2018, “BLM held bonds worth an average of \$2,122 per well. . . .”<sup>xii</sup> It also determined that “low-cost [federal] wells typically cost about \$20,000 to reclaim, and high-cost [federal] wells typically cost about \$145,000 to reclaim. . . .”<sup>xiii</sup> Based on those estimates, taxpayers are facing billions of dollars in potential clean-up costs—costs that, by law and as a matter of basic fairness—are the responsibility of the oil and gas industry.

For example:

- As of FY 2020, there were 96,110 “producible and service wells” on federal lands.<sup>xiv</sup> Reclaiming those wells could cost taxpayers between \$1.7 billion (low-cost scenario) and \$13.7 billion (high-cost scenario).
- Nearly two-thirds of those costs would come from wells in just two states: New Mexico and Wyoming. In New Mexico, taxpayers could be liable for between \$571.9 million (low-cost) and \$4.6 billion (high-cost). And in Wyoming, taxpayers could be on the hook for between \$527.2 million (low-cost) and \$4.2 billion (high-cost).
- Even for states with fewer wells on federal lands, the costs could soar into the tens of millions. For example, abandoned wells in West Virginia could cost taxpayers between \$5 million (low-cost) and \$40.3 million (high-cost) of industry’s reclamation costs.

The chart below highlights our findings regarding the recovery costs and potential taxpayer burden for states with the most federal wells, and for the United States as a whole.

Location	Federal Wells	Est. Bond Value	Est. Recovery Costs	Est. Taxpayer Burden
California	7,849	\$16,655,578	\$157M - \$1.13B	\$140M - \$1.2B
Colorado	7,539	\$15,997,758	\$151M - \$1.09B	\$134M - \$1.07B
Montana	2,978	\$6,319,316	\$59.5M - \$431M	\$53M - \$425M
New Mexico	31,991	\$67,844,902	\$640M - \$4.6B	\$572M - \$4.57B
Utah	9,070	\$19,246,540	\$181M - \$1.3B	\$162M - \$1.3B
Wyoming	29,488	\$62,573,536	\$590M - \$4.2B	\$527M - \$4.2B
<b>Total U.S.</b>	<b>96,110</b>	<b>\$203,945,420</b>	<b>\$1.9B - 13.9B</b>	<b>\$1.7B - \$13.7B</b>

For the full spreadsheet visit [here](#).

## Recommendations

The federal government’s antiquated bonding rules may force American taxpayers to cover billions of dollars of the oil and gas industry’s clean-up costs. Congress and the Biden Administration need to fix this by enacting fiscally responsible, common-sense reforms that are widely supported by the public:

- **Congress can pass legislation that strengthens the federal government’s bonding rules:** Congress can pass stand-alone legislation introduced by Senators Bennet and Heinrich that would significantly strengthen federal bonding rules and also provide billions of dollars to clean-up orphaned wells.<sup>xv</sup> Similar provisions are included in the

House's reconciliation package, which provides another avenue to strengthen these rules.

- **The Biden Administration can strengthen the federal government's bonding rules through a new rulemaking:** The Biden Administration has broad discretion and authority over the federal oil and gas program, including over reclamation activities. Accordingly, the administration can and should initiate a rulemaking to raise the federal government's minimum bond amounts – at least as high as provided for in the House's reconciliation package – and to ensure that any and all bonds will fully cover potential reclamation costs.
- **The Biden Administration must make full-cost bonding a condition of lease acquisition:** Because of a court order, the administration is resuming on- and offshore oil and gas lease sales.<sup>xvi</sup> The court did not modify the “broad” and “considerable” discretion that the administration has over the federal oil and gas program, however. Accordingly, as a condition of purchasing leases, BLM must require companies to agree to post bonds that will “completely” cover potential reclamation and restoration costs.

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<sup>i</sup> 30 U.S.C. § 226(g).

<sup>ii</sup> *Id.*

<sup>iii</sup> GAO, BLM Should Address Risks from Insufficient Bonds to Reclaim Wells 11 (Sept. 2019), available at <https://www.gao.gov/assets/gao-19-615.pdf>.

<sup>iv</sup> BLM, Oil and Gas Statistics, available at <https://www.blm.gov/programs-energy-and-minerals-oil-and-gas-oil-and-gas-statistics>.

<sup>v</sup> Exploration Activity; Oil and Gas Leasing; National Petroleum Reserve, Alaska; and Geothermal Resources Leasing; General; Amendment Consolidating Oil and Gas and Geothermal Geophysical Exploration and Lease Bonds, and Increasing Minimum Bond Amount Requirements, 50 Fed. Reg. 18,614 (May 1, 1985), available at <https://tile.loc.gov/storage-services/service/l1/fedreg/fr050/fr050084/fr050084.pdf>

<sup>vi</sup> See *supra* note iii at 15.

<sup>vii</sup> *Id.* at 2.

<sup>viii</sup> *Id.* at 17.

<sup>ix</sup> IOGCC, Idle and Orphan Oil and Gas Wells 14 (2019), available at [https://iogcc.ok.gov/sites/g/files/gmc836/f/documents/2021/2020\\_03\\_04\\_updated\\_idle\\_and\\_orphan\\_oil\\_and\\_gas\\_wells\\_report.pdf](https://iogcc.ok.gov/sites/g/files/gmc836/f/documents/2021/2020_03_04_updated_idle_and_orphan_oil_and_gas_wells_report.pdf).

<sup>x</sup> Nichola Groom, *Millions of abandoned oil wells are leaking methane, a climate menace*, Reuters (June 16, 2020), available at <https://www.reuters.com/article/us-usa-drilling-abandoned-specialreport-idUSKBN23N1NL>.

<sup>xi</sup> David Roberts, *Coronavirus stimulus money will be wasted on fossil fuels*, Vox (June 29, 2020), available at <https://www.vox.com/2020/4/20/21224659/coronavirus-stimulus-money-oil-prices-fossil-fuels-bailout>.

<sup>xii</sup> See *supra* note iii at 11.

<sup>xiii</sup> *Id.* at 6.

<sup>xiv</sup> <https://www.blm.gov/programs-energy-and-minerals-oil-and-gas-oil-and-gas-statistics>

<sup>xv</sup> See *supra* note iv.

<sup>xvi</sup> DOI, *Interior Department Files Court Brief Outlining Next Steps in Leasing Program* (Aug. 24, 2021), available at <https://www.doi.gov/pressreleases/interior-department-files-court-brief-outlining-next-steps-leasing-program>.