TAXPAYERS for COMMON SENSE

FACT SHEET

August 2023

Federal Oil and Gas Bonding

When oil and gas companies do not reclaim wells, taxpayers end up picking up the slack.

PHOTO CREDIT: "Oil well pump jacks" by Richard Masoner is licensed under CC BY-SA 2.0

What is Oil and Gas Bonding?

The Bureau of Land Management (BLM) under the Department of the Interior (DOI) oversees the leasing of federal lands to oil and gas operators. When operators drill wells on federal lands, they change the landscape. This "surface disturbance" includes: road construction to the well site, topsoil excavation and leveling, drilling the well, installing machinery to control operations (the wellhead), and storage of other equipment and materials used or generated during drilling and production.

When a well ceases production and becomes inactive, it can pose environmental and public health risks if not reclaimed properly. The Bureau of Land Management defines well reclamation as a process to restore lands to a condition "equal to or closely approximating" their original natural state[1], which involves plugging the well, removing structures and reshaping and revegetating the land around the wells. To ensure complete and timely reclamation of lands, the Mineral Leasing Act of 1920, as amended, requires the Bureau of Land Management to obtain an adequate bond or other financial assurance from operators before drilling begins. The Bureau of Land Management uses the bonds to recuperate at least some of the costs of reclamation when operators abandon wells or otherwise fail to adequately restore

[1] https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/reclamation

the landscape. If an operator adequately reclaims their wells, the bureau will return the bond to the operator.

The Problem

If not reclaimed properly, wells can damage the environment and public health by leaking methane gas, contaminating surface water and groundwater, fragmenting habitats, eroding soil, and interfering with agricultural land use.[2] In the event an operating company dissolves or goes bankrupt, as they do regularly throughout the oil and gas boom-and-bust cycle, the Bureau of Land Management uses the company's bond to cover the costs of any remaining reclamation work. If the amount of the bond is insufficient, taxpayers are forced to cover the costs of reclaiming the abandoned well.

The Bureau of Land Management is responsible for determining the reclamation requirements for operators, setting minimum bond values, and establishing what types of bonds it will accept.

The three types of bond coverage the Bureau of Land Management accepts, and their minimum values are as follows:

- $10,000 for an operator's wells on an individual lease;
- $25,000 for all wells owned by an operator in one state; and
- $150,000 for all wells owned by an operator nationwide.

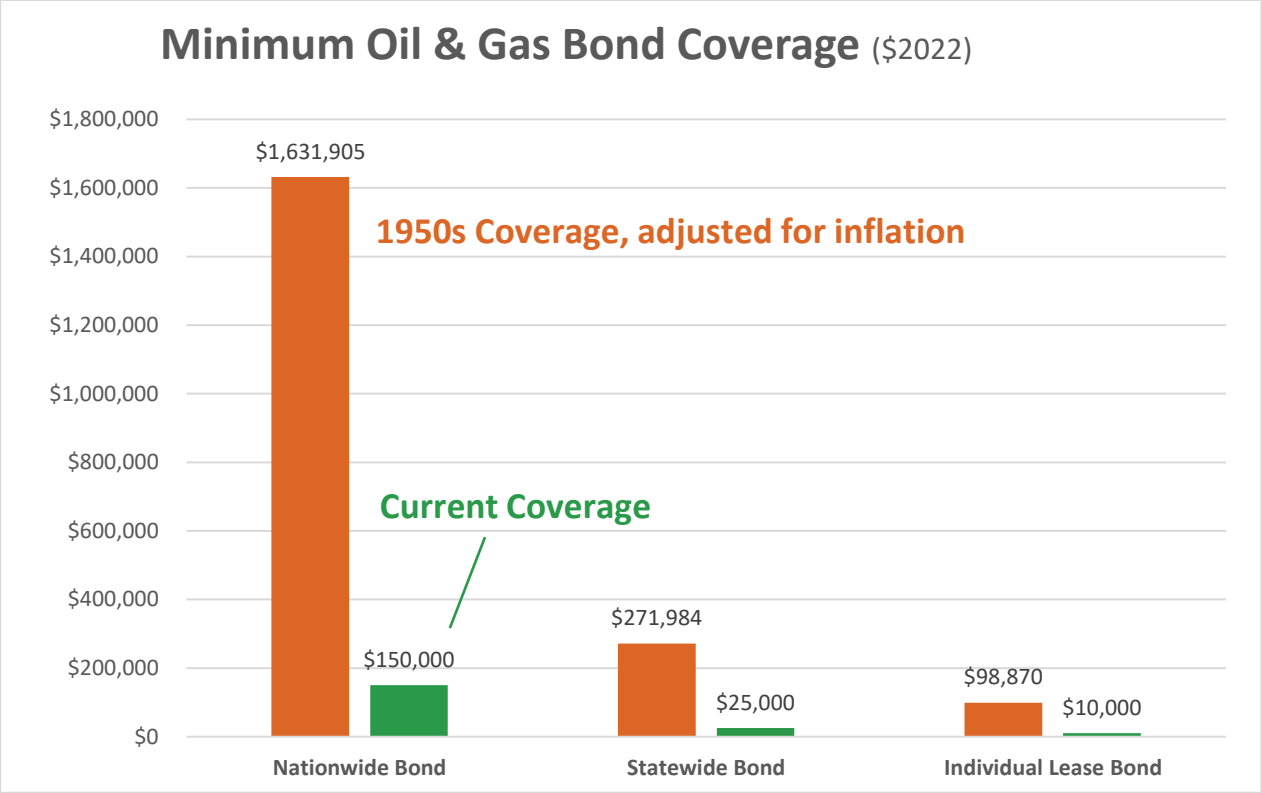
Operators can secure either a surety bond or a personal bond. A surety bond is when operators enter a legally binding contract with a third-party surety company who will assume the responsibility of the debt if the operator defaults or is unable to make the bond payments.

According to a Government Accountability Office report published in 2019, the average value of bonds held by the Bureau of Land Management in 2019 was $2,122 per well.[3] The bond value held by the bureau does not reflect the full reclamation costs for the wells they cover, which can range from $20,000 per well to $145,000 per well. In fact, 84 percent of bonds, which cover 99.5 percent of wells, are not enough to cover even the lower estimate of $20,000 per well. That is, bonds currently held by the Bureau of Land Management do not provide full financial assurance for well reclamations cost as intended; the financial burden of cleaning up hazardous abandoned wells too often falls to taxpayers. The GAO estimates reclamation costs for orphaned wells and inactive wells at risk of becoming orphans in 2018 was $46.2 million and that more wells are at risk of becoming orphaned in coming years.[4]

[2] Government Accountability Office, Oil and Gas: Bureau of Land Management Should Address Risks from Insufficient Bonds to Reclaim Wells, Sep 18, 2019. p. 6
[3] Ibid. p. 11
[4] Government Accountability Office, Oil and Gas Wells: Bureau of Land Management Needs to Improve Its Data and Oversight of Its Potential Liabilities, Jun 5, 2018. p.16

The bond minimums set by the Bureau of Land Management are particularly egregious for several reasons:

1. They have not been adjusted for inflation since they were first set in the 1950s and 1960s. Adjusted for inflation, today's $10,000 minimum bond was the equivalent of $98,870 in coverage for an individual lease bond when it was established a half century ago. Similarly, the original rate for statewide bonds translates to an equivalent of $271,984 and the nationwide bond minimum covered $1,631,905 in reclamation costs when it was first set.[5]



The individual lease bond minimum was set in 1960; statewide and nationwide bond minimums were set in 1954. Inflation adjustment calculated using Consumer Price Index for All Urban Consumers (CPI-U) provided by U.S. Bureau of Labor Statistics.

2. Even though the Bureau of Land Management has the authority to increase bond value above the statutory minimum and is required to raise the minimum if an operator has failed to reclaim a well before, 82% of all bonds were accepted at the regulatory minimum amount.
3. Current minimum bond values are not based on the number of wells the bond covers, but are instead grouped into categories, which favors big oil and gas companies that own large number of wells statewide or nationwide—for example, an operator that runs 10 wells in a state and one that runs 100 pay the same amount for a statewide bond,

[5] 19 F.R. 9011.

$25,000. Nor do bond minimums reflect other well characteristics such as well depth and location that would affect reclamation costs.

4. Low bond minimums incentivize operators not to reclaim wells since it is often more costly to clean up well sites than to simply forfeit the minimum bonded amount.

Time to Address Insufficient Bonding

The Bureau of Land Management should raise the minimum bond amount to reflect the actual costs of reclaiming oil and gas wells. The current requirements do not, and taxpayers are forced to pay the difference. The current rates were set in the 1950s and 60s and have never been adjusted for inflation. In July 2023, the Department of the Interior released a proposed rule that proposes to raise the minimums for individual leases bonds to $150,000; statewide bonds to $500,000; and eliminate nationwide and unit bonds.

These reforms, if enacted, would protect taxpayers and finally hold oil and gas companies accountable for cleaning up after themselves. Congress could also consider granting the Bureau of Land Management authority to obtain funds from operators to reclaim orphaned wells, per GAO's recommendation.

Conclusion

Federal lands are entrusted to operators to develop oil and gas responsibly; and their failure to reclaim wells poses serious environmental and public health threats and carries significant financial costs. Outdated rules like the decades-old minimum bond requirements are failing in their intended purpose of protecting taxpayers from these cleanup costs. The Bureau of Land Management needs to update its regulations to ensure oil and gas companies, not taxpayers, are paying to reclaim abandoned wells.