

EMNRD OCD Rebuttal Slides

NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT

Authorities

- **Andrea Felix with NMOGA in NMOGA exhibit B page 15 of 59 line 324 has asserted “that the legislature must make statutory changes before the proposed rules may be implemented” when discussing bonding. This implies OCD does not have the authority to establish the bonding proposed in the new rule making.**
- **OCD is providing 70-2-14.A NMSA which is OCD’s authority for requiring financial assurance.**

70-2-14 A NMSA

A. Each person, firm, corporation or association who operates any oil, gas or service well within the state shall, as a condition precedent to drilling or producing the well, furnish financial assurance in the form of an irrevocable letter of credit or a cash or surety bond or a well-specific plugging insurance policy pursuant to the provisions of this section to the oil conservation division of the energy, minerals and natural resources department running to the benefit of the state and conditioned that the well be plugged and abandoned in compliance with the rules of the oil conservation division. The oil conservation division shall establish categories of financial assurance after notice and hearing. Such categories shall include a blanket plugging financial assurance, which shall be set by rule in an amount not to exceed two hundred fifty thousand dollars (\$250,000), a blanket plugging financial assurance for temporarily abandoned status wells, which shall be set by rule at amounts greater than fifty thousand dollars (\$50,000), and one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant. The oil conservation division shall require a one-well financial assurance on any well that has been held in a temporarily abandoned status for more than two years or, at the election of the operator, may allow an operator to increase its blanket plugging financial assurance to cover wells held in temporarily abandoned status. All financial assurance shall remain in force until released by the oil conservation division. The oil conservation division shall release financial assurance when it is satisfied the conditions of the financial assurance have been fully performed.

70-2-14.A Key Points

➤ **“The oil conservation division shall establish categories of financial assurance after notice and hearing.”**

- Through this hearing the OCD is attempting to establish a new category of financial assurance and update financial assurance requirements for categories that were previously established. Establishing new categories of financial assurance isn't novel, as currently the OCD requires inactive wells to have additional financial assurance which isn't expressly provided in the NMSA but was also an established category.
- As previously pointed out in my direct slides the LFC has even recommended the promulgation of rules for “low-producing” wells to require individual well financial assurance. Low-producing wells identified by the LFC is very similar in framework as the marginal well provision this rule is proposing.

70-2-14.A Key Points

- **“one-well plugging financial assurance in amounts determined sufficient to reasonably pay the cost of plugging the wells covered by the financial assurance. In establishing categories of financial assurance, the oil conservation division shall consider the depth of the well involved, the length of time since the well was produced, the cost of plugging similar wells and such other factors as the oil conservation division deems relevant.”**
- As provided in my direct slides, as required by statutes OCD has reviewed and considered the depth of the wells. OCD found that the depths do not play as much of a factor due to the age and degrading downhole conditions the OCD frequently encounters when plugging these wells.
 - The OCD has provided what it is currently paying for the plugging of similar wells and other factors it considers relevant.

70-2-14.A Conclusion

- As provided 70-2-14.A provides that the OCD “shall” establish categories of Financial Assurance, which the OCD is proposing in this rule making.
- The OCD has previously utilized this provision to establish categories.
- The OCD feels they have met the requirements in the statutes to determine appropriate financial assurance requirements.

Volumes vs Days

- **Andrea Felix with NMOGA in NMOGA exhibit B page 6 of 59 line 114 has asserted the use of days when evaluating production is arbitrary.**
- After reviewing the testimony, it is evident that while days may show responsible use of a well by an operator, the way it is combined with volumes can potentially be confusing. As such the OCD is open to eliminating the days from the provisions and only incorporating the volumes which is also consistent with the LFC report. The reasoning is the days can be something the operator then uses in their response to the OCD when they receive a presumption of no beneficial use.
- It is important if a component is removed it only be the days and not the volume. As a well can have a valve open on it and be considered producing even though no real effort is being made to beneficially produce the well.