



Douglas R. Emerick: Surrebuttal NMOGA Financial Assurance Expert

Surrebuttal Testimony in OCC Case No. 24683 | October-November 2025



BEATTY & WOZNIAK
ENERGY IN THE LAW

In Response to Applicants' Expert Testimony

WELC Technical Expert Thomas Alexander

- **Mr. Alexander admitted the financial assurance rules will affect every operator.**
- If the new rules are put in place, there will be small and medium operators that will forfeit any existing bonds and not be able to provide larger ones.
- OCD may grow their orphan well problem as a result.
- Mr. Alexander admitted “speculation” was confusing, and the new rules needed to be interpreted.
 - Amplifies confusion and perceived risk in the surety underwriting process.

WELC Technical Expert Dwayne Purvis

- When the Commission was questioning Mr. Purvis, there were some answers he gave that were wrong.
- **Collateral is taken by a surety even if the principal is a good risk.**
 - Purvis linked collateral with the principal being a poor risk. That is wrong.
- **Mr. Purvis also told the Commission that bonds were written for one year. That is wrong for a lot of bonds, including the New Mexico OCD Bond which is non-cancelable.**
 - Purvis may have been thinking of *annual* premiums.
 - *Annual* premiums are charged even on non-cancelable bonds.

WELC Legal Expert Peter Morgan

- Mr. Morgan represented that he is both a legal expert and a financial assurance expert – but through cross-examination, he was forced to reveal that he has never worked for a surety, has no surety experience, and has never issued a bond.
- Mr. Morgan compared New Mexico to how the increase in financial assurance affected Texas, but he did not compare the forms.
 - Texas' bond is cancelable and is an annual bond.
 - Texas is a less hazardous bond to write.
- Mr. Morgan's statement during Commissioner questioning that “prudent operators will be rewarded by sureties with good terms” **is wrong**.
- Mr. Morgan said the State of New Mexico spent \$15,000,000 plugging 193 wells. That works out to **\$77,720 per well P&A cost to OCD**.
 - That does not align with the \$163,000 plugging cost to OCD relied upon for the \$150,000 single well financial assurance requirement.

WELC Subject-Matter Expert Adam Peltz

- I agree with Mr. Peltz that financial assurance should be risk-based.
- If the “high-risk” operator portfolio category and threshold are adopted, OCD should have discretion to waive the single well financial assurance requirements for all wells regardless of status or type.
 - Mr. Peltz admitted under the rules as currently proposed (19.15.8.9(D)(3) NMAC), there is no ability for OCD to waive the requirement all wells be secured by \$150K worth of assurance where an operator has 15% or more marginal or inactive wells (i.e., high risk portfolio).
 - At a minimum, I think the 15% threshold should be increased, as Mr. Peltz indicated would be reasonable if clear limitations are established.

Other Concerns with Applicants' Testimony

- My overarching concern is that WELC and OCD mindsets appear to desire to eliminate the small operator who they view as the perpetrator of New Mexico's orphan well problem, but without proof of the same.
- The unasked question about these rules is, if the current OCD couldn't keep orphan wells from occurring, what makes them think the new rules will?
- They will not be able to staff up the personnel easily.
 - Phone calls, emails and letters about these new rules will drive OCD crazy.

In Response to the Testimony of OCD Environmental Bureau Chief **Rosa Romero**

Romero Examples Not Instructive or Useful for this P&A Financial Assurance Rulemaking

- Ms. Romero confirmed that remediation and reclamation costs are not included under the financial assurance authorized under the New Mexico Oil and Gas Act at issue here.
- The remediation examples provided by Ms. Romero are also not instructive here because it is unknown what financial assurance was in place on the wells she discussed.
- She also admitted the remediation and reclamation costs she reported represent such a small sample size that they cannot be used to determine what the average cost would be or to perform any statistical analyses.
 - Similarly that program just started in 2023.

In Response to the Testimony of OCD Deputy Director **Brandon Powell**

Who oversees OCD Environmental and Engineering Division

Major Concerns Regarding Forfeiture

- **Whether any bonds have been forfeited since 2018 is an issue in dispute.**
 - **If not, this may endanger some operators and possibly force them out of business.**
 - **Could be considered a governmental attack on its constituency.**
- **These rules shouldn't be changed until the State of New Mexico knows what forfeiture of the bonds would generate.**
 - If \$250K blanket bonds are not worth forfeiting, then how are \$150K single well bonds not going to encounter the same problem?

Major Concerns Regarding Operator Analysis

- OCD would be irresponsible in doing a deep dive analysis of operators.
- The financial assurance rules cover the state, **and** the surety underwriters will have to perform that same analysis before providing the bond to the operator.

In Response to the Testimony of SLO Director of Oil, Gas, and Minerals Leasing **Allison Marks**

Clarification on SLO Use of OCD Bond Proceeds

- SLO discussed the use of OCD bond **proceeds**.
- That would happen only when OCD received funds from the surety.
- No surety will pay the SLO on an OCD bond.
- The Surety will only pay the OCD.
- The OCD is the obligee on the bond and is the only entity that the surety will pay.

Non-Cancelable Bonds vs. Cancelable Bonds

“Non-Cancelable” Bond Means Surety Cannot Cancel

- “Non-cancelable” means there is no cancellation provision in the bond
- The surety cannot cancel the bond once issued, even if the regulatory environment and risk change
- Unless a replacement non-cancelable bond is on file
- Inherently riskier bonds to write
- Surety performs deeper financial vs. than for a cancelable bond

Oklahoma Well Drillers Bond Form is Cancelable

OIL AND GAS CONSERVATION DIVISION
PO Box 171
Oklahoma City, OK 73101
405-521-2331
occcentralprocessing@occ.ok.gov



Form 1006

OTC/OCC Operator No. _____
BOND No. _____

SURETY BOND
OAC 165:10-1-12
(TYPE OR PRINT USING BLACK INK)

This Surety Bond is continuous in nature & cannot be canceled without OCC Consent.

Coverage Begins _____

KNOW ALL MEN BY THESE PRESENTS:

NAME OF OPERATOR:	
MAILING ADDRESS:	
PHYSICAL ADDRESS: <small>(If different from the Mailing Address)</small>	
CITY, STATE and ZIP CODE:	
PHONE NUMBER:	FAX NUMBER:
CONTACT PERSON:	E-MAIL:
EMERGENCY CONTACT:	PHONE NUMBER:

NAME OF SURETY COMPANY:	
MAILING ADDRESS:	
PHYSICAL ADDRESS: <small>(If different from the Mailing Address)</small>	
CITY, STATE and ZIP CODE:	
PHONE NUMBER:	FAX NUMBER:
CONTACT PERSON:	E-MAIL:

That the operator herein referred to as Principal and that Surety Company authorized to do business within the State of Oklahoma are held and firmly bound unto said State in the penal sum up to an amount not exceeding \$_____, lawful money of the United States, for which payment will and truly be made, we bind ourselves, and each of us, and each of our heirs, executors, administrators or successors, and assigns jointly and severally, firmly of these presents.

The condition of this obligation is that the above bounden principal proposes to drill and/or operate an oil, gas, injection, disposal or service well or wells within the State of Oklahoma. Bounden principal has furnished his agreement in writing to the Corporation Commission of the State of Oklahoma according to the General Rules and Special Orders of the Commission.

Now, there, if the above bounden principal shall plug each well drilled and/or operated by him within the State of Oklahoma at the time and in the manner prescribed by the laws of the State of Oklahoma and the General Rules and Special Orders of the Corporation Commission of the State of Oklahoma, then this obligation shall be null and void; otherwise, the same shall be and remain in full force and effect. **This obligation may be terminated upon six (6) month notice in writing to the Conservation Division and evidence furnished of acceptable alternate surety if required (OAC 165:10-1-12, 52 O.S. § 318.1) or as the rule or statute may be amended.** Such termination is not effective until this obligation is released by the Surety Department of the Oil and Gas Conservation Division. No other termination is effective until released by the Surety Department of the Oil and Gas Conservation Division.

Provided, however, the aggregate liability of the surety hereunder shall in no event exceed the sum of this bond.

Witness our hands and seals, this _____ day of _____, 20_____.

Signature of Principal Officer

Type or Printed Name of the Officer Listed Above

Witness our hands and seals, this _____ day of _____, 20_____.

Signature of Surety Company

Typed or Printed Name of the Surety Company Listed Above

Counter Signed by:

Oklahoma Resident Service Agent _____
Physical Address, City, State, Zip Code, Phone Number

(When the principal or surety executes this bond by agent or attorney in fact, the evidence of authority must accompany this bond.)

If the amount of surety coverage is less than \$25,000.00 USD or for an injection well then an original affidavit (OCC Form 1006D) of estimated plugging costs from an Oklahoma Licensed Pipe Puller and Well Plugging Company must accompany this Bond. The affidavit must state the Well Name and Number, Legal Locations, and the estimated cost of properly plugging and abandonment of each well or wells pursuant to Commission rules.



Louisiana Well Drilling Bond Form is Cancelable

in any court or before any officer, arising out of or founded upon this Bond or any liability hereunder; and does hereby agree and consent that such service, when so made, shall be valid service upon it, and that such appointment shall continue in force and effect and be irrevocable so long as any liability against it remains outstanding hereunder; and

NOW THEREFORE, the Principal and Surety agree as follows:

The Surety hereby guarantees the Principal's agreement to plug and abandon the Subject Wells, to remove all platforms, plings, facilities, pits and to restore the surface pursuant to the Leases, the Rules, Regulations and Orders of the Secretary of the Department of Conservation and Energy and/or the laws of the State of Louisiana and to pay all costs and expenses associated therewith in full compliance with the terms of the Leases, the Rules, Regulations and Orders promulgated by the Secretary of the Department of Conservation and Energy and/or any and all other state and federal agencies having jurisdiction over such matters and the laws of the State of Louisiana as now written or as they may be hereafter amended.

This Bond shall be automatically renewed annually, subject to the terms and provisions hereof, unless the Surety shall notify the Oblige, in writing by Certified Mail or via nationally recognized courier with signed receipt, of its intention to cancel the bond. Such written notice of cancellation shall be given at least one hundred twenty (120) days prior to the proposed cancellation date.

This obligation shall remain in full force and effect for the full penal amount of the Bond until such time as all of the Subject Wells have been plugged and abandoned and all Facilities removed and surface restoration operations have been completed, in accordance with the Leases, and/or Rules, Regulations and Orders of the Secretary of the Department of Conservation and Energy and/or the laws of the State of Louisiana and this Bond shall have been released and discharged in writing by the Secretary of the Department of Conservation and Energy.

PROVIDED, HOWEVER, to the extent the Principal and/or the Surety may be liable for any expenses, fees, penalties, damages (either direct, indirect or consequential) in addition to the obligation described above, or to the extent the Oblige may incur any attorneys' fees or court costs or other expenses of litigation in the event of a contest over the Surety's denial of the obligation (or any part thereof), the maximum obligation of the Surety under this Bond shall be the penal sum of _____ (bond amount), reduced as applicable, as provided for herein.

FURTHERMORE, it is agreed that the Surety shall have no obligation to the Principal for any loss suffered by the Principal by reason of acts or omissions which are or could be covered by the Principal's general liability insurance, products liability insurance, completed operations insurance or any other insurance. In no event shall the Surety be obligated to pay, in the aggregate, for all claims hereunder, an amount exceeding the penal sum of this Performance Bond.

Whenever the Principal is issued a 10-Day Orphan Letter or fails, neglects or refuses to carry out its obligation to plug and abandon any one or more of all of the Subject Wells, remove platforms or restore the surface of the Leases (or Subject Tract related to the Subject Well), or to pay the cost thereof, when and if it is required to do so under the terms of the Leases, and/or Rules, Regulations and Orders of the Secretary of the Department of Conservation and Energy and/or the laws of the State of Louisiana and the Oblige has presented to the Surety a written notice of default, sent by Certified Mail or via nationally recognized courier with signed receipt, by the Principal of its obligations and such condition has persisted for sixty(60) days following the date of such written notice of default, then the Surety shall within thirty(30) days:

10.1.25

(Multiple Wells/Minerals)

Bond No. _____

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, _____
(operator name as established by Department of Conservation and Energy and address; hereinafter called the "Principal")

and _____
(bonding company name and address; hereinafter called the "Surety")

are held and firmly bound unto the Louisiana Department of Conservation and Energy, State of Louisiana, with its principal office at 617 North Third Street, 9th Floor, Baton Rouge, Louisiana 70802 (hereinafter called the "Obligee"), in the penal sum of _____ (bond amount) lawful money of the United States of America for the payment of which penal sum the Principal and Surety bind themselves, their successors and assigns, jointly, severally and in solido firmly by these presents.

WHEREAS, the Principal has applied to the Department of Conservation and Energy for a Permit to Drill Minerals for wells and facilities listed on the attached Subject Wells on Exhibit "A"; and

WHEREAS, the Principal has assumed the obligation to plug and abandon the well, remove platforms, close associated pits, remove facilities, conduct site clearance and verification, conduct site and to restore the surface in accordance with the Leases and/or the Rules, Regulations and Orders of the Secretary of the Department of Conservation and Energy and/or the laws of Louisiana; and

WHEREAS, the Principal and Surety agree that notwithstanding the subsequent termination of any Lease, or the expiration of law or otherwise, this Bond shall remain in full force and effect until all obligations of the Principal under the Leases and/or the Rules, Regulations and Orders promulgated by the Department of Conservation and Energy and/or the laws of the State of Louisiana are fully and faithfully performed and a release and discharge of this Bond shall have been given by the Secretary of the Department of Conservation and Energy; and

WHEREAS, the Principal has promised to deliver to the Oblige a Bond substantially in the form hereof; and

WHEREAS, the Surety represents that it is duly authorized by the proper public authorities to transact the business of indemnity and suretyship in the State of Louisiana, and represents that it is qualified to be surety and guarantor on bonds and undertakings, which certificate has not been revoked; and

WHEREAS, the Surety represents that it has duly executed a power of attorney, appointing the hereinafter named representative as its duly authorized deputy, as the true and lawful attorney-in-fact of such Surety, upon whom may be served all lawful process in any action or proceeding against such Surety

FS-PBMW (10.1.25)



Texas P-5 Bond is Cancelable

TO: RAILROAD COMMISSION OF TEXAS
Attention: Oil & Gas Division
Administrative Compliance Section
P-5 Financial Assurance Unit
P.O. Box 12967
Austin, TX 78711-2967

Bond # _____

PERFORMANCE BOND

P-5PB
rev. 9/2021

WHEREAS, persons performing oil and gas operations within the jurisdiction of the Railroad Commission of Texas (Commission) are required to execute and file with the Commission a bond covering those operations pursuant to Texas Natural Resources Code §§ 91.103 and 91.104;

WHEREAS, persons required to file financial security pursuant to Texas Natural Resources Code §§ 91.103-91.104 may file an individual bond or blanket bond in an amount prescribed by Texas Natural Resources Code §§ 91.1041 or 91.1042 in satisfaction of the requirement to file financial security with the Commission;

WHEREAS, the Principal named below is the operator of certain Commission-regulated operations including but not limited to: (1) operations and permits listed on the Commission's Form P-5 (Organization Report) records; and/or (2) wells listed on the Commission's Oil and Gas Proration Schedule(s) and any additional wells that may be obtained prior to the expiration of this bond and carried on the Oil and Gas Proration Schedule(s);

WHEREAS, the Commission's Form P-5 (Organization Report) records and the Oil and Gas Proration Schedule(s) pertaining to the Principal are incorporated herein by reference as if fully set forth at length;

WHEREAS, the Principal desires to perform oil and gas operations and activities within the jurisdiction of the Commission, and which operations and activities must be carried on in full conformance with all state laws and Commission rules, including those laws and Commission rules, orders, and permits requiring operators to plug and abandon all wells and control, abate, and clean up pollution associated with an operator's oil and gas operations and activities; and

WHEREAS, Principal acknowledges and agrees that, due to amendments to the Texas Natural Resources Code, amendments to Commission Rules, and/or changes to the Principal's Commission-regulated operations, including without limitation the acquisition of additional wells, it may be required during the effective term of this bond to provide additional financial security beyond the face amount of this bond before its Form P-5 (Organization Report) will be accepted and approved.

NOW, THEREFORE:

We, _____ (operator's name exactly as shown on Form P-5 (Organization Report)), _____ (P-5 number) as Principal, and _____ as Surety, duly authorized and qualified to do business in the State of Texas, are held and firmly bound unto the State of Texas in the sum of _____ Dollars (\$ _____) payable at Austin, Travis County, Texas, and for the payment of which, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

The Principal and Surety are relieved of their obligation to pay the bond amount to the State if the Principal conducts its oil and gas operations and activities in accordance with state law and all permits, rules and orders of the Commission, and is in full compliance with the following requirements and conditions of this bond:

- All inactive wells shall be maintained in compliance with Commission Statewide Rules 14 and 15 by: (a) plugging the wells or restoring the wells to beneficial use, and (b) preventing the pollution of any ground or surface water in the state or any uncontrolled escape of formation fluids from the strata in which they were originally located;
- All active wells shall be maintained to prevent the pollution of any ground or surface water in the state or any uncontrolled escape of formation fluids from the strata in which they were originally located;
- All oil and gas operations and activities shall be conducted in a manner that prevents pollution of any ground or surface water in the state; and
- The Principal has maintained current operator status as reflected on the Commission's P-5 records.

In the event of Principal's failure to comply with the conditions and obligations of this bond, the Surety shall promptly remedy such non-compliance, in accordance with the laws of the state and permits, rules, and orders of the Commission, within 60 days of notice of non-compliance as follows:

- If any well or other oil and gas operation or activity subject to this bond is likely to pollute or is polluting any ground or surface water or allowing uncontrolled escape of formation fluids from the strata in which they were originally located, the Surety shall expend funds up to the face amount of the bond to control, abate and clean up pollution and to prevent further escape of formation fluids.
- If the Principal has failed to maintain current operator status as reflected on the Commission's P-5 Organization Report records, the Surety shall:
 - Expend funds up to the face amount of the bond to properly plug the well or close any other operation or activity (Surety understands and agrees that plugging or closing operations must be completed once commenced without the expenditure of State Funds, including State Oil-Field Cleanup funds); or
 - Pay liquidated damages. It is agreed by the parties that the actual damages which might be sustained by the Railroad Commission of Texas by reason of the failure to comply are uncertain and would be difficult of ascertainment, and it is further agreed that the amount of liquidated damages for offshore wells will be calculated by multiplying the total depth of the well by the average actual per-foot plugging costs for wells plugged by the Commission in the preceding state fiscal year for the Commission Oil and Gas Division district in which the well is located (if for any reason a district average is not available, then the state-wide average for the preceding fiscal year shall be used), up to the face amount of the bond, and that amount would be reasonable and just compensation for such failure to comply, and Surety hereby promises to pay and the Railroad Commission of Texas agrees to accept, at its office in Austin, Travis County, Texas such sum as liquidated damages, and not as a penalty, in the event of such failure to comply. It is further agreed by the parties that the amount of liquidated damages for bay and/or offshore wells will be the estimated cost of plugging each well, which will be the amount required in 16 Tex. Admin. Code § 3.78(g)(1)(A) or (B) plus the additional amount that was required per well by the Commission in 16 Tex. Admin. Code § 3.78(g)(2)-(5), up to the face amount of the bond, and that amount would be reasonable and just compensation for failure to comply, and Surety hereby promises to pay and the Railroad Commission of Texas agrees to accept, at its office in Austin, Travis County, Texas such sum as liquidated damages, and not as a penalty, in the event of such failure to comply.
- Except as provided by Paragraph 2(b) above, if the Commission has expended State Funds to plug any well, to close any other operation or activity, to control, abate and clean up pollution or take any other action to prevent further escape of formation fluids, the Surety shall reimburse the

(over)

Commission for the amounts of State Funds so expended up to the face amount of the bond.

Sums demanded under this bond shall be paid to the Railroad Commission at Austin, Texas, within thirty days after receipt of written demand therefor, which demand shall be mailed by registered or certified U.S. mail to the address shown below.

Conditions and obligations under this bond are construed in accordance with laws of the State of Texas and all permits, rules, and orders of the Commission, including any amendments thereto that may be made during the term of this bond, and Surety waives notice of any such amendments. The State of Texas shall have the right to sue on and otherwise enforce the obligations of this bond without first resorting to or exhausting its remedies against the properties and assets of the Principal.

If the Principal is filing this bond for the first time, then the bond is effective on the Principal's P-5 effective date for the first year; thereafter, it will be effective 150 days after the Form P-5 effective and/or renewal date.

The term of this bond shall expire _____, 20____ (date must be 150 days after the Principal's annual Form P-5 expiration dates) and is renewable. Written notice of renewal shall be given by the Surety to the Commission on or before the Principal's last P-5 filing date prior to the expiration of this bond. Obligations to pay part or all of the bond amount are deemed released upon the expiration date of the bond unless the Commission has made a claim on the bond or an enforcement action against any operations or activities subject to the bond is pending. Principal and Surety may also be relieved of their obligations to pay part or all of the bond amount by written agreement between the Commission, Principal, and Surety.

If the bond amount is not paid in accordance with the terms of this bond and if judgment for any part of the bond amount is awarded through action of the Attorney General or other action filed by the Commission in bankruptcy, probate, or any other court proceeding, then the State shall be entitled to court costs and reasonable attorney's fees awarded by the court. Surety's liability for such costs and fees shall not be limited by the amount of this bond. It is agreed and understood that this bond is executed and performable in Austin, Travis County, Texas, and venue for any cause of action construing this bond is proper in Austin, Travis County, Texas.

A transfer, by any means, of any well covered under this bond does not relieve the Surety of any obligation under this bond until the operator acquiring the well has on file with the Commission an approved form of financial security covering the well and an approved Form P-4 (Certificate of Compliance and Transportation Authority). The transferred well remains covered by this bond and the Principal and Surety remain responsible for compliance with all laws and Commission rules covering the transferred well until the Commission determines that the well is covered by proper financial security and the acquiring operator has assumed full responsibility for the well in accordance with all state laws, including Tex. Nat. Resources Code §91.107 and all applicable Commission rules.

IN TESTIMONY WHEREOF, said PRINCIPAL has hereunto subscribed his or her name or has caused this instrument to be signed by its duly authorized officers this _____ day of _____, 20____.

PRINCIPAL

By _____
NAME & TITLE



New Mexico OCD Bond Forms are Non-Cancelable (no cancellation provision)

Form O&G SB
Adopted 6-17-1977
Revised 12/14/2022

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

SURETY BOND

- SINGLE WELL PLUGGING [19.15.8.9(C)(1); 19.15.8.9(D)(1) NMAC]
- BLANKET PLUGGING [19.15.8.9(C)(2) NMAC; 19.15.8.9(D)(2) NMAC]
- RECYCLING FACILITY OR CONTAINMENT [19.15.34.15 NMAC]
- SURFACE WASTE MANAGEMENT FACILITY [19.15.36.11 NMAC]
- WQCC DISCHARGE PERMIT (EXCLUDING UIC WELLS) [20.6.2.3107.A(11) NMAC]
- WQCC DISCHARGE PERMIT FOR UIC CLASS I, III, and V INJECTION WELLS [20.6.2.5006 NMAC; 20.6.2.5210.B(17) NMAC; 20.6.2.5320 NMAC; 20.6.2.5342(A)(1) NMAC; 20.6.2.5361(A)(3) NMAC; 20.6.2.5362(A)(3) NMAC; 20.6.2.5363 NMAC]
- ABATEMENT PLAN [19.15.30.11(C) NMAC; 20.6.2.4104(C) NMAC]

BOND NUMBER _____

BOND AMOUNT _____

FINANCIAL INSTITUTION _____

OPERATOR/PRINCIPAL _____

OGRID NUMBER _____

WELL/FACILITY _____

TYPE OF WELL [] Active [] Inactive [] Approved Temporary Abandonment

WELL DEPTH _____

LOCATION Section [] Township [] Range []
County []

API/ PERMIT NUMBER _____

Form O&G CB
Revised 12/14/2022

STATE OF NEW MEXICO
ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

CASH BOND

- SINGLE WELL PLUGGING [19.15.8.9(C)(1); 19.15.8.9(D)(1) NMAC]
- BLANKET PLUGGING [19.15.8.9(C)(2) NMAC; 19.15.8.9(D)(2) NMAC]
- RECYCLING FACILITY OR CONTAINMENT [19.15.34.15 NMAC]
- SURFACE WASTE MANAGEMENT FACILITY [19.15.36.11 NMAC]
- WQCC DISCHARGE PERMIT (EXCLUDING UIC WELLS) [20.6.2.3107.A(11) NMAC]
- WQCC DISCHARGE PERMIT FOR UIC CLASS I, III, and V INJECTION WELLS [20.6.2.5006 NMAC; 20.6.2.5210.B(17) NMAC; 20.6.2.5320 NMAC; 20.6.2.5342(A)(1) NMAC; 20.6.2.5361(A)(3) NMAC; 20.6.2.5362(A)(3) NMAC; 20.6.2.5363 NMAC]
- ABATEMENT PLAN [19.15.30.11(C) NMAC; 20.6.2.4104(C) NMAC]

BOND NUMBER _____

BOND AMOUNT _____

FINANCIAL INSTITUTION _____

OPERATOR/PRINCIPAL _____

OGRID NUMBER _____

WELL/FACILITY _____

TYPE OF WELL [] Active [] Inactive [] Approved Temporary Abandonment

WELL DEPTH _____

LOCATION Section [] Township [] Range []
County []

API/ PERMIT NUMBER _____



Federal Offshore Bond Forms are Non-Cancelable (no cancellation provision)

U.S. Department of the Interior
Bureau of Ocean Energy Management

OMB Control No.: 1010-0006
Expiration Date: 07/31/2027

Cover Page
**OUTER CONTINENTAL SHELF (OCS)
MINERAL LESSEE'S OR OPERATOR'S BOND**

Form BOEM-2028

This form dated July 2024 supersedes all previous versions of form BOEM-2028

All Bond Forms must be submitted with a transmittal letter to the appropriate BOEM office:

Bureau of Ocean Energy Management
Gulf of America OCS Office
1201 Elmwood Park Blvd.
New Orleans LA 70123-2394
Leasing and Financial Responsibility - Mail Stop GM266A

Bureau of Ocean Energy Management
Alaska OCS Office
3801 Centerpoint Drive, Suite 500
Anchorage AK 99503-5820
Alaska Leasing Section

Bureau of Ocean Energy Management
Pacific OCS Office
760 Paseo Camarillo, Suite 102
Camarillo CA 93010
Lease Management

Paperwork Reduction Act of 1995 (PRA) Statement: The PRA (44 U.S.C. 3501 *et seq.*) requires us to inform you that BOEM collects this information to hold the surety liable for the obligations and liability of the Principal (lessee or operator). Responses are mandatory. No proprietary information is collected. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this form is estimated to average 20 minutes per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Comments regarding the burden estimate or any other aspect of this form should be directed to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.

U.S. Department of the Interior
Bureau of Ocean Energy Management

OMB Control No: 1010-0006
Expiration Date: 07/31/2027

Cover Page
**OUTER CONTINENTAL SHELF PIPELINE RIGHT-OF-WAY
GRANT BOND**

Form BOEM-2030

This form dated July 2024 supersedes all previous versions of form BOEM-2030

All Bond Forms must be submitted with a transmittal letter to the appropriate BOEM office:

Bureau of Ocean Energy Management
Gulf of America OCS Office
1201 Elmwood Park Blvd.
New Orleans LA 70123-2394
Leasing and Financial Responsibility - Mail Stop GM266A

Bureau of Ocean Energy Management
Alaska OCS Office
3801 Centerpoint Drive, Suite 500
Anchorage AK 99503-5820
Alaska Leasing Section

Bureau of Ocean Energy Management
Pacific OCS Office
760 Paseo Camarillo, Suite 102
Camarillo CA 93010
Lease Management

Paperwork Reduction Act of 1995 (PRA) Statement: The PRA (44 U.S.C. 3501 *et seq.*) requires us to inform you that BOEM collects this information to hold the surety liable for the obligations and liability of the Principal (lessee or operator). Responses are mandatory. No proprietary information is collected. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this form is estimated to average 15 minutes to 3 1/2 hours per response, including the time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Comments regarding the burden estimate or any other aspect of this form should be directed to the Information Collection Clearance Officer, Bureau of Ocean Energy Management, 45600 Woodland Road, Sterling, VA 20166.



W&T as a Case Study for How FA
Increases Targeting Small Operators
Will Result in Collateral Increases for
Existing and New Bonds, Where Non-
Cancelable Assurance is Required

W&T Case Study for Non-Cancelable Assurance

- **Case study for non-cancelable financial assurance**
- This case is used to substantiate the effects I anticipate will happen here due to **NM's use of non-cancelable bonds**
 - Proves collateral and premiums could be increased by sureties as a result of a financial assurance overhaul and increases
 - ***Proves existing bonds will be affected in addition to new bonds***
 - Proves that for existing non-cancelable bonds, sureties can strategically demand unreasonable increases of collateral to escape hostile and/or risky regulatory markets

Federal Offshore Uses Non-Cancelable Bond Form Just like NM and Regulations Reflect

- Both New Mexico and federal offshore bonds are “non-cancelable” because they cannot be released by the surety until the full terms of the lease/grant/permit obligations are met (or replacement non-cancelable assurance provided), **including all P&A requirements**
- Regulations reflect the non-cancelable bond form
 - New Mexico regulator overseeing *both* financial assurance and P&A is the Oil Conservation Division (OCD)
 - Federal offshore regulator overseeing financial assurance is the Bureau of Ocean Energy Management (BOEM)
 - Federal offshore regulator overseeing P&A is the Bureau of Safety and Environmental Enforcement (BSEE)

NM Regulatory Regime Complements the Non-Cancelable Bond Form

OCD FA Release Regulation **19.15.8.12 NMAC**

“A. The division shall release a financial assurance document upon the operator’s or surety’s written request **if all wells drilled or acquired under that financial assurance have been plugged and abandoned . . .**”

Federal Offshore Regulatory Regime Complements the Non-Cancelable Bond Form

BSEE Decommissioning Regulation 30 CFR § 250.1710

Lessees “must permanently plug all wells on a lease within 1 year after the lease terminates.”

BOEM FA Release Regulation 30 CFR § 556.906(d)

“(d) BOEM will cancel the financial assurance for your lease or grant, and the Regional Director will return any pledged financial assurance, as shown in the following table:

- (1) Financial assurance submitted under . . . (i) 7 years after the lease or grant expires or is terminated, 6 years after the Regional Director determines that you have **completed all covered obligations**, . . .
- (2) Financial assurance submitted under . . . (i) When the lease or grant expires or is terminated and the Regional Director determines you have **met your covered obligations**, . . .
- (3) Third-party Guarantee . . . (i) When the Regional Director determines you have **met your obligations secured by the guarantee . . .**”

Complaint

Emerick Rebuttal Appx. B

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62. W&T's financial status has remained substantially the same since the execution of the Indemnity Agreement and the issuance of the bonds thereunder.

63. The only material change regarding the bonds involves not W&T, but the regulatory environment established by the United States Department of Interior.

64. In light of the changes to the regulatory environment, the Sompo Sureties have, on information and belief, made the decision that they wish to exit the market for surety bonds related to the Outer Continental Shelf.

65. The bonds issued in favor of the BOEM are not cancelable.

66. The Sompo Sureties' demand for collateral is not based on the financial condition of W&T Energy or W&T Offshore, but is entirely based on a change in the regulatory environment and the Sompo Sureties' changed business model.

67. The Sompo Sureties' demand for collateral is at odds with the ongoing discussions with the Other Sureties, thus, placing W&T in an impossible position, as complying with one demand will require W&T to breach its obligations to the other.

W&T Claims Against Lexon and Endurance Remain Pending

Morgan Demonstrative Exhibit Cited Lexon's Motion to Dismiss Yet to Be Ruled On

Doc. 57 PACER

Since Lexon issued the surety bonds at the center of this litigation, W&T has reported significant deterioration of its financial health. That development, coupled with numerous other industry-wide issues, including relevant court rulings, losses sustained across the industry, and reinsurance considerations, led Lexon to send a collateral demand notice to W&T on July 9, 2024. W&T's other sureties, who each have their own indemnity agreements with W&T, apparently observed the same financial trends and independently decided to demand collateral payment from W&T.

LEXON'S PARTIAL MOTION TO DISMISS W&T'S
FIRST AMENDED COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)

26

- Lexon cites to the deterioration of W&T's financial status, but at the same time mentions other contributing factors, including:
 - Industry-wide situations such as court rulings (unspecified)
 - Industry losses (no industry specified)
 - Reinsurance considerations
- Financial deterioration alone may force a surety to ask for increased collateral, **but other factors cause sureties to change their approach to writing hazardous bonds – which Lexon concedes here**
- One of many motions which led to unsuccessful mediation

W&T Form 8-K Legal Disclosures Confirms Settlement with Only 2 Sureties: USSIC and PHL Y

Item 7.01 Regulation FD Disclosure.

On June 17, 2025, W&T Offshore, Inc. (the “Company”) issued a press release announcing that it has come to a settlement agreement with two of its largest surety providers which calls for the dismissal of a previously filed lawsuit relating to, among other things, disputes in connection with the rights and obligations under indemnity agreements by and among the Company and the applicable Sureties (as defined below) party thereto (the “Sureties Litigation”). A copy of the press release is furnished as Exhibit 99.1 to this Current Report on Form 8-K. **Does not include Lexon**

The information in this Item 7.01 of this Current Report on Form 8-K is being “furnished” pursuant to General Instruction B.2 of Form 8-K and shall not be deemed to be “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liabilities of that section, and is not incorporated by reference into any Company filing, whether made before or after the date hereof, regardless of any general incorporation language in such filing.

Item 8.01 Other Events.

On June 14, 2025, the Company entered into a Settlement and Release Agreement, dated effective as of June 13, 2025 (the “USSIC Settlement Agreement”), by and between the Company and U.S. Specialty Insurance Company (“USSIC”) and, on June 15, 2025, the Company entered into a Settlement Agreement, dated effective as of June 14, 2025 (the “PHLY Settlement Agreement,” and, together with the USSIC Settlement Agreement, the “Settlement Agreements”), by and between the Company and Philadelphia Indemnity Insurance Company (“PHLY,” and, together with USSIC, the “Sureties”) to dismiss all claims related to the Sureties Litigation without prejudice.

Pursuant to the applicable Settlement Agreement, the Sureties agree that: (i) there will be no change to the 2024 premium rates paid by the Company or any of its affiliates, subsidiaries or joint venture entities, for any currently existing surety bond executed by the applicable Surety until after December 31, 2026, at the earliest, (ii) the Sureties withdraw all demands for collateral and agree not to request, demand, or otherwise insist on collateral, whether related to a surety bond or pursuant to the indemnity agreements, until after December 31, 2026, at the earliest; provided that such restriction shall not apply if (a) the Company does not pay premiums owed to the applicable Surety when due; (b) a claim is made by a third party against any bond issued by the applicable Surety to the Company or its affiliates or subsidiaries; (c) there is an initiation of an insolvency proceeding for the Company or any of its affiliates, subsidiaries or joint venture entities, whether voluntary or involuntary; (d) there is an uncured event of default under the indenture governing the Company’s second lien notes due 2029 that results in an acceleration, in whole or in part, of the indebtedness thereunder; or (e) the Company or its affiliates or subsidiaries initiate a lawsuit against the Sureties. Each of the Settlement Agreements also provides that, in the event that the Company enters into an agreement to provide collateral to another party in settlement of the Sureties Litigation on bonds existing as of the date of the Settlement Agreement, the Company shall, on a pro rata basis, provide substantially similar collateral to the applicable Surety as it does to such other party.

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D)
OF THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): June 14, 2025

W&T Offshore, Inc.

(Exact name of registrant as specified in its charter)

1-32414
(Commission File Number)

Texas
(State or Other Jurisdiction of
Incorporation)

72-1121985
(IRS Employer Identification No.)

5718 Westheimer Road, Suite 700
Houston, Texas 77057
(Address of Principal Executive Offices)

713.626.8525
(Registrant’s Telephone Number, Including Area Code)

N/A
(Former Name or Former Address, If Changed Since Last Report)

Jury Trial Scheduled Feb. 22, 2027

Doc. 162 on PACER

Case 4:24-cv-03047 Document 162 Filed on 09/15/25 in TXSD Page 1 of 3

United States District Court
Southern District of Texas

ENTERED

September 15, 2025

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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**W&T OFFSHORE, INC., AND
W&T ENERGY VI, LLC,**

v.

**ENDURANCE ASSURANCE
CORPORATION and LEXON
INSURANCE CO., et al.**

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**LEAD CASE NO. 4:24-cv-3047
CONSOLIDATED ACTION**

Agreed:

9/10/2025

Date

/s/ Yasser A. Madriz

Counsel for Plaintiffs W&T Offshore, Inc. & W&T Energy VI, LLC

9/10/2025

Date

/s/ Jason Halper

Counsel for Defendants Endurance Assurance Corp. & Lexon Insurance Co.

9/10/2025

Date

/s/ Ryan Dry

Counsel for Defendants Pennsylvania Insurance Company & United States Fire Insurance Company

DOCKET CONTROL ORDER

Anticipated Length of Trial: 10 Days

Jury: X Non-Jury: _____



W&T v. Lexon Jury Trial Scheduled Feb. 22, 2027 *Doc. 164 on PACER*

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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

W&T Offshore, Inc., et al.

v.

Case Number: 4:24-cv-03047

Endurance Assurance Corporation
Vinson & Elkins LLP, et al.

NOTICE OF HEARING

**TAKE NOTICE THAT A PROCEEDING IN THIS CASE HAS BEEN
SCHEDULED AS SET FORTH BELOW.**

Jury Trial set for 2/22/2027 at 09:00 AM before Judge Andrew S Hanen.

PLACE

Courtroom 9D
Houston Division
515 Rusk Avenue
Houston, Texas 77002

Date: September 15, 2025

Nathan Ochsner, Clerk, Clerk
s/ 4 Carol Felchak, Deputy Clerk



BEATTY & WOZNIAK

ENERGY IN THE LAW

Miguel Suazo | Shareholder
Santa Fe, New Mexico