

KELLEY MONTGOMERY

Oxy USA, Inc.
Direct Testimony



19.15.25.12 NMAC Overview

- Existing 19.15.25.12 NMAC currently gives OCD authority to place wells in TA status “for up to five years” (can be set a shorter initial period) and provides discretion to extend the status for good cause shown
 - Existing rule currently limits the number of wells that can be in TA status to one well if the operator operates between one and five wells or one-third of all wells if the operator operates more than five wells.
- 19.15.25.13 NMAC identifies evidence an operator must submit on the well’s casing and cementing when seeking approval of temporary abandonment status.
- 19.15.25.14 NMAC identifies the mechanical integrity tests an operator must perform on the well before seeking approval of temporary abandonment status.

Not aware of any deficiencies in this existing process that has caused concerns with the integrity of wells in approved TA status.

Proposed Modifications to 19.15.25.12 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: B. Prior to the expiration of an approved temporary abandonment, the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for a new approval to temporarily abandon the well to the division to extend temporary abandonment status pursuant to the procedures for adjudicatory proceedings in 19.15.4 NMAC, except that in any such adjudicatory proceeding any interested person may intervene under 19.15.4.11.A NMAC. To continue in temporary abandonment, the operator must demonstrate to the division that the well will be returned to beneficial use within the requested period of temporary abandonment. The request shall include documentation demonstrating why the well should remain in temporary abandonment; documentation demonstrating why the well was not brought back to beneficial use or plugged and abandoned during the period of temporary abandonment; documentation demonstrating how the well will be put to beneficial use in the future and supporting technical and economic data; a plan that describes the ultimate disposition of the well, the time frame for that disposition; and a health and safety plan demonstrating the well's casing and cementing meet the requirements of Subsections B and C of Section 19.15.25.13 NMAC and the operator has adequate monitoring procedures in place to ensure such requirements will be met. An extended term shall not exceed two additional years, upon which time the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: B. Prior to the expiration of an approved temporary abandonment, the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for a new approval to temporarily abandon the well to the division to extend temporary abandonment status pursuant to the procedures for adjudicatory proceedings in 19.15.4 NMAC, except that in any such adjudicatory proceeding any interested person may intervene under 19.15.4.11.A NMAC. To continue in temporary abandonment, the operator must demonstrate to the division that the well will be returned to beneficial use within the requested period of temporary abandonment. address The request shall include documentation demonstrating why the well should remain in temporary abandonment; address documentation demonstrating why the well was not brought back to beneficial use or plugged and abandoned during the period of temporary abandonment; address documentation demonstrating how the well will be put to beneficial use in the future, demonstrate and supporting technical and economic data; a plan that describes the ultimate disposition of the well, the time frame for that disposition; and a health and safety plan demonstrating the well's casing and cementing meet the requirements of Subsections B and C of Section 19.15.25.13 NMAC current; and any other information the division determines appropriate and the operator has adequate monitoring procedures in place to ensure such requirements will be met. An extended term shall not exceed two additional years, upon which time the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	Oxy proposes to eliminate the portion of WELC's proposed additions to subsection B limiting the Division's authority to extend temporary abandonment status to no longer than two (2) years. Oxy believes the Division should retain full discretion for the length of time an eligible well may be approved for TA status. - Enhanced recovery projects frequently benefit from an inventory of TA wells; - For example, Oxy has 49 wells that have been or will be converted to producing out of TA status; - Converting these wells can take many years due a variety of factors: - Economics, technology, regulatory hurdles, and infrastructure.

Proposed Modifications to 19.15.25.12 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: <u>D. Implementation schedule for existing wells.</u> <u>(1) Inactive wells.</u> Wells that have been inactive for less than three years are eligible for temporary abandonment status. Wells that have been inactive for three or more years are not eligible for temporary abandonment status. <u>(2) Wells in approved temporary abandoned status.</u> Any operator of a well in temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section prior to the date temporary abandonment status terminates. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location. <u>(3) Wells in expired temporary abandoned status.</u> Any operator of a well in expired temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: <u>D. Implementation schedule for existing wells.</u> <u>(1) Inactive wells.</u> Wells that are inactive as of [effective date of amendments] shall be returned to beneficial use, permanently plug or subject to a request to place the wells in temporary abandoned status within a year of [effective date of amendment]. Wells that have been inactive for less than three years are eligible for temporary abandonment status. Wells that have been inactive for three or more years are not eligible for temporary abandonment status. <u>(2) Wells in approved temporary abandoned status.</u> Any operator of a well in temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section prior to the date temporary abandonment status terminates. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location. <u>(3) Wells in expired temporary abandoned status.</u> Any operator of a well in expired temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	Oxy proposes to eliminate the portion of WELC's proposed additions to subsection D limiting the eligibility of wells to be in TA status to only those that have been inactive for less than three (3) years. Oxy believes the Division should retain full discretion over which wells are eligible for TA status. - Enhanced recovery projects frequently benefit from an inventory of TA wells- many of which will have been inactive for three years or more; - Allowing wells with mechanical integrity to be granted TA status will not only assist in continued enhanced recovery, but also prevent operators from having to prematurely plug wells only to have to drill new wells for EOR projects.

WELLS IN TEMPORARY ABANDONMENT STATUS

- Wells in Temporary Abandonment status are often reworked to facilitate innovative oil and gas production mechanisms, like enhanced recovery projects.
- These projects can take many years to come to fruition, and Oxy's proposed change allowing the Division to retain discretion over wells in TA status would allow for operators to more efficiently and effectively utilize these wells.

WELLS IN TEMPORARY ABANDONMENT STATUS

- Oxy's proposed changes do not alter or interfere with operator's requirements to evidence the mechanical integrity of these wells but simply allows for the Division to tailor the time frame and conditions of approval to each particular circumstance.

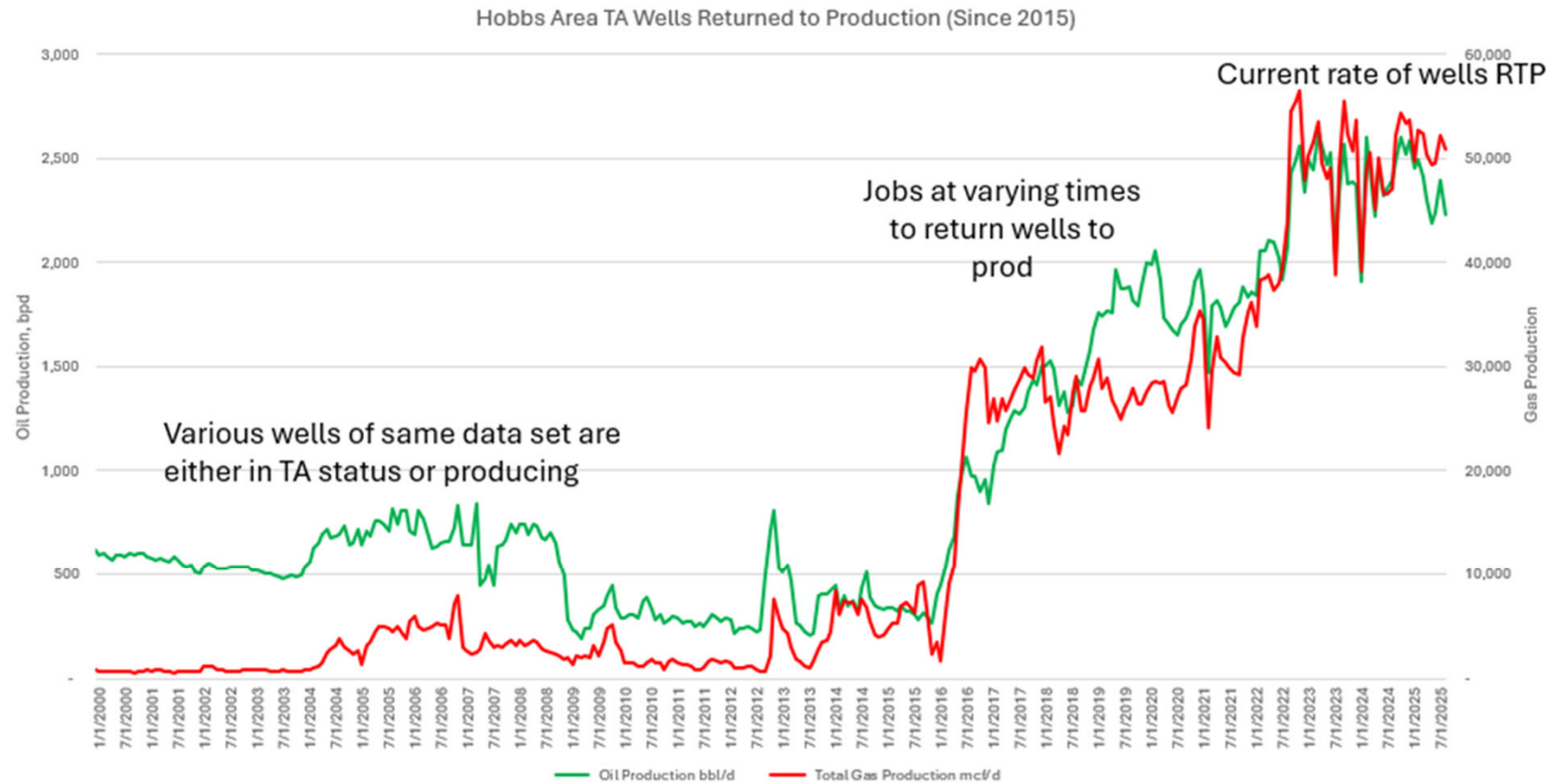
KELLEY MONTGOMERY

Oxy USA, Inc.
Rebuttal Testimony



WELLS IN TEMPORARY ABANDONMENT STATUS

- WELC's proposed rule would give operators a maximum of seven (7) years to either (1) return wells to beneficial use under a Division approved plan, or (2) permanently plug the well and restore and remediate the location.
- This proposal is premised on the idea that wells in TA status for longer than 7 years provide little to no benefit- but for Oxy, this has not been the case.



*Not time normalized. Rates are actual production over time

OXY WELLS RETURNED TO PRODUCTION

- As the graph depicts, in the last 10 years, and in just the Hobbs area alone, Oxy has returned 49 wells to production or injection that had been in TA status.
- Moreover, 45% of those wells had been in TA status for more than 8 years. And 21 of those 49 wells had been in TA status for more than 10 years.
- Under WELC's proposed rule, almost half of these wells would have been plugged, resulting in the arbitrary loss of these valuable assets and associated production. The capital expenditures necessary to drill new wells for these types of projects is likely to result in the waste of valuable resources.



TIFFANY WALLACE

Oxy USA, Inc.

Direct Testimony



19.15.2.7 NMAC Overview

- Oxy does not see a need to define “beneficial purpose” or “beneficial use” as proposed by WELC. Leaving the term undefined will allow the Division and Operators flexibility when addressing a notice of no beneficial use from the Division under proposed 19.15.25.9 NMAC.
- Oxy opposes the creation of a new category of active well—“marginal wells”—with a separate financial assurance requirement because it exceeds the blanket bond limit established by statute.

Proposed Modifications to 19.15.2.7 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.2.7 DEFINITIONS: A. Definitions beginning with the letter “A”. (13) “Approved temporary abandonment,” “temporary abandonment,” or “temporary abandonment status” means the status of a well that is inactive, has been approved in accordance with 19.15.25.13 NMAC and complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC. B. Definitions beginning with the letter “B”. (5) “Barrel of oil equivalent” is determined by converting the volume of gas the well produced to barrels of oil by using a ratio of 6,000 cubic feet to one barrel of oil. (7) “Beneficial purposes” or “beneficial use” means an oil or gas well that is being used in a productive or beneficial manner such as production, injection or monitoring, and does not include use of a well for speculative purposes. (8) “Expired temporary abandonment” or “expired temporary abandonment status” means the status of a well that is inactive and has been approved for temporary abandoned status in accordance with 19.15.25.13 NMAC, but that no longer complies with 19.15.25.12 NMAC through 19.15.25.14 NMAC. M. Definitions beginning with the letter “M”. (2) “Marginal well” means an oil or gas well that produced less than 180 days and less than 1,000 barrels of oil equivalent within a consecutive 12 month period.	No changes B. Definitions beginning with the letter “B”. No changes (7) “Beneficial purposes” or “beneficial use” means an oil or gas well that is being used in a productive or beneficial manner such as production, injection or monitoring, and does not include use of a well for speculative purposes. No changes M. Definitions beginning with the letter “M”. (2) “Marginal well” means an oil or gas well that produced less than 180 days and less than 1,000 barrels of oil equivalent within a consecutive 12 month period.	Oxy does not see a need to define “beneficial purpose” or “beneficial use” as proposed by WELC. Leaving the term undefined will allow the Division and Operators flexibility when addressing a notice of no beneficial use from the Division under proposed 19.15.25.9 NMAC. Oxy opposes the creation of a new category of active well—“marginal wells”—with a separate financial assurance requirement because it exceeds the blanket bond limit established by statute.

19.15.5.9 NMAC Overview

- WELC proposes to change the definition of “inactive well” to be a well that shows no production for 13 months, rather than 15 months as provided in the current rule, creating a rebuttable presumption that the well is out of compliance. Oxy sees no reason or justification for altering the timelines for when a well is considered to be “inactive.”

Proposed Modifications to 19.15.5.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.5.9 COMPLIANCE: B. Inactive wells. (1) The division shall make available on its website, and update daily, an “inactive well list” listing each well, by operator, that according to division records: (a) shows no production or injection for past 13 15 months; (b) does not have its well bore plugged in accordance with 19.15.25.9 NMAC through 19.15.25.11 NMAC; (c) is not in approved temporary abandonment in accordance with 19.15.25.12 NMAC through 19.15.25.14 NMAC; and (d) is not subject to an agreed compliance or final order setting a schedule for bringing the well into compliance with 19.15.25.8 NMAC. (2) A well inactive for more than 13 15 months creates a rebuttable presumption that the well is out of compliance with 19.15.25.8 NMAC. C. Financial assurance. The division shall make available on its website and update weekly the status of operators’ financial assurance that 19.15.8 NMAC requires, according to division records.	19.15.5.9 COMPLIANCE: B. Inactive wells. (1) The division shall make available on its website, and update daily, an “inactive well list” listing each well, by operator, that according to division records: (a) shows no production or injection for past 13 15 months; (b) does not have its well bore plugged in accordance with 19.15.25.9 NMAC through 19.15.25.11 NMAC; (c) is not in approved temporary abandonment in accordance with 19.15.25.12 NMAC through 19.15.25.14 NMAC; and (d) is not subject to an agreed compliance or final order setting a schedule for bringing the well into compliance with 19.15.25.8 NMAC. (2) A well inactive for more than 13 15 months creates a rebuttable presumption that the well is out of compliance with 19.15.25.8 NMAC. C. Financial assurance. The division shall make available on its website and update weekly the status of operators’ financial assurance that 19.15.8 NMAC requires, according to division records.	Oxy sees no reason or justification for altering the timelines for when a well is considered to be “inactive.”

19.15.8.9 NMAC Overview

- Oxy does not object to WELC's proposal to increase the required financial assurance for active or inactive wells.
- However, WELC's proposal to create a new category of financial assurance for what it defines as "marginal wells" and WELC's effort to remove the two-year period for wells in temporarily approved status to remain under an operator's active blanket financial assurance are improper.
- WELC seeks to define "marginal well" and impose a new financial assurance requirement for these active wells. As reflected in WELC's proposed definition, "marginal wells" are producing active wells. Nonetheless, WELC's proposal removes these wells from the blanket financial assurance for active wells and requires instead financial assurance in the amount of \$150,000 for each of these active wells.
- WELC proposal to carve out "marginal" wells from the statutory restriction on financial assurance is not authorized by the legislature.

Proposed Modifications to 19.15.8.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: A. Applicability. An operator who has drilled or acquired, is drilling or proposes to drill or acquire an oil, gas or injection or other service well within this state shall furnish a financial assurance acceptable to the division in accordance with 19.15.8.9 NMAC and in the form of an irrevocable letter of credit, plugging insurance policy or cash or surety bond running to the state of New Mexico conditioned that the well be plugged and abandoned and the location restored and remediated in compliance with commission rules, unless the well is covered by federally required financial assurance. The division shall not approve, and the operator shall not proceed with any proposed drilling or acquisition until the operator has furnished the required financial assurance. B. A financial assurance shall be conditioned for well plugging and abandonment and location restoration and remediation only, and not to secure payment for damages to livestock, range, crops or tangible improvements or any other purpose	No changes	Oxy supports WELC's proposed change to Subpart A of 19.15.8.9 NMAC.

Proposed Modifications to 19.15.8.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: C. Active wells. An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC and are not subject to Subsections D and E of 19.15.8.9 NMAC in one of the following categories: (1) a one well plugging financial assurance in the amount of \$150,000 per well; \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or (2) a blanket plugging financial assurance in the amount of \$250,000 following amounts covering all the wells of the operator subject to Subsection C of 19.15.8.9 NMAC.: (a) \$50,000 for one to 10 wells; (b) \$75,000 for 11 to 50 wells; (c) \$125,000 for 51 to 100 wells; and (d) \$250,000 for more than 100 wells. D. Marginal wells and inactive wells. Notwithstanding the provisions in Subsection C(2) in this Section: (1) As of the [effective date of amendments] a transferee operator shall provide a one well plugging financial assurance of \$150,000 for each marginal well prior to transfer. (2) Beginning January 1, 2028, an operator shall provide a one well plugging financial assurance for each marginal well. (3) An operator with 15 percent or more of their wells in marginal or inactive well status, or a combination thereof, shall provide a one well plugging financial assurance in the amount of \$150,000 for each well registered to the operator until the percentage of the operator's marginal and inactive wells is decreased below 15 percent. (4) An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.	19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: C. Active wells. An operator shall provide financial assurance for wells that are covered by Subsection A of 19.15.8.9 NMAC and are not subject to Subsections D and E of 19.15.8.9 NMAC in one of the following categories: (1) a one well plugging financial assurance in the amount of \$150,000 per well; \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or (2) a blanket plugging financial assurance in the amount of \$250,000 following amounts covering all the wells of the operator subject to Subsection C of 19.15.8.9 NMAC.: (a) \$50,000 for one to 10 wells; (b) \$75,000 for 11 to 50 wells; (c) \$125,000 for 51 to 100 wells; and (d) \$250,000 for more than 100 wells. D. Marginal wells and inactive wells. Notwithstanding the provisions in Subsection C(2) in this Section: (1) As of the [effective date of amendments] a transferee operator shall provide a one well plugging financial assurance of \$150,000 for each marginal well prior to transfer. (2) Beginning January 1, 2028, an operator shall provide a one well plugging financial assurance for each marginal well. (3) An operator with 15 percent or more of their wells in marginal or inactive well status, or a combination thereof, shall provide a one well plugging financial assurance in the amount of \$150,000 for each well registered to the operator until the percentage of the operator's marginal and inactive wells is decreased below 15 percent. (4) An operator may furnish all necessary one well plugging financial assurance in the form of a single instrument.	Oxy does not object to WELC's proposal to increase the financial assurance required for active wells. WELC proposes to create a new category of financial assurance for what it defines as "marginal wells." WELC's proposal removes these wells from the blanket financial assurance for active wells and requires instead financial assurance in the amount of \$150,000 for each of these active wells. WELC's proposal to carve out "marginal" wells from the statutory restriction on financial assurance is not authorized by the legislature. There is no need to enact a new financial assurance category for active marginal wells that is inconsistent with Section 70-2-14(A) when an alternative method (the "presumption of no beneficial use" provision proposed by WELC under 19.15.25.9) exists to address any concerns with active marginal wells. WELC has adopted Oxy's proposed alternative modification to 19.15.8.9.D including language that if the marginal well category stands, financial assurance reviews will be adjusted annually by May 1 of each year. See Applicants' Ex. 72.

Proposed Modifications to 19.15.8.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: E.D. Inactive wells and wells in approved and expired temporarily abandoned status. An operator shall provide financial assurance for wells that are inactive and wells in approved and expired temporarily abandoned status, covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories: (1) a one well plugging financial assurance in the amount of \$150,000 per well; \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or (2) a blanket plugging financial assurance equal to an average of \$150,000 per well covering all wells of the operator subject to Subsection ED of 19.15.8.9 NMAC.: (e) \$150,000 for one to five wells; (f) \$300,000 for six to 10 wells; (g) \$500,000 for 11 to 25 wells; and (h) \$1,000,000 for more than 25 wells. F.D. Operators who have on file with the division a blanket plugging financial assurance that does not cover additional wells shall file additional one single well plugging bond financial assurance for any wells not covered by the existing blanket plugging financial assurance bond in an amount as determined by Section 19.15.8.9 NMAC, subject to any limitations in Section 70-2-14 NMSA 1978, or, in the alternative, may file a replacement blanket bond.	19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: E.D. Inactive wells and wells in approved and expired temporarily abandoned status. An operator shall provide financial assurance for wells that are inactive and wells in approved and expired temporarily abandoned status, covered by Subsection A of 19.15.8.9 NMAC that have been in temporarily abandoned status for more than two years or for which the operator is seeking approved temporary abandonment pursuant to 19.15.25.13 NMAC in one of the following categories: (1) a one well plugging financial assurance in the amount of \$150,000 per well; \$25,000 plus \$2 per foot of the projected depth of a proposed well or the depth of an existing well; the depth of a well is the true vertical depth for vertical and horizontal wells and the measured depth for deviated and directional wells; or (2) a blanket plugging financial assurance equal to an average of \$150,000 per well covering all wells of the operator subject to Subsection ED of 19.15.8.9 NMAC.: (e) \$150,000 for one to five wells; (f) \$300,000 for six to 10 wells; (g) \$500,000 for 11 to 25 wells; and (h) \$1,000,000 for more than 25 wells. F.D. Operators who have on file with the division a blanket plugging financial assurance that does not cover additional wells shall file additional one single well plugging bond financial assurance for any wells not covered by the existing blanket plugging financial assurance bond in an amount as determined by Section 19.15.8.9 NMAC, subject to any limitations in Section 70-2-14 NMSA 1978, or, in the alternative, may file a replacement blanket bond.	WELC's proposal to require additional financial assurance for wells in approved temporary abandonment status for less than two years does not comply with Section 70-2-14.

Proposed Modifications to 19.15.8.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: G. On January 1, 2028 and on January 1 of each successive year, the division may adjust the financial assurance amounts provided by Subsections C(1), D, E and F of this Section by multiplying the financial assurance as of January 1, 2027 by a fraction, the numerator of which is the consumer price index ending in September of the previous year and the denominator of which is the consumer price index ending September 2026; provided that any financial assurance shall not be adjusted below the minimum amounts required in Subsections C(1), D, E and F of this Section as a result of a decrease in the consumer price index. By November 1, 2027 and by November 1 of each successive year, the division shall post on its website the financial assurance requirements in Subsection A through E of this Section for the next year. As used in this subsection, "consumer price index" means the consumer price index, not seasonally adjusted, for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor for a 12 month period ending September 30.	19.15.8.9 CATEGORIES AND AMOUNTS OF FINANCIAL ASSURANCE FOR WELL PLUGGING: G. On January 1, 2028 and on January 1 of each successive year, the division may adjust the financial assurance amounts provided for inactive wells and wells in a temporarily abandoned status for more than two years by Subsections C(1), D, E and F of this Section by multiplying the financial assurance as of January 1, 2027 by a fraction, the numerator of which is the consumer price index ending in September of the previous year and the denominator of which is the consumer price index ending September 2026; provided that any financial assurance shall not be adjusted below the existing amounts minimum amounts required in Subsections C(1), D, E and F of this Section as a result of a decrease in the consumer price index. By November 1, 2027 and by November 1 of each successive year, the division shall may post on its website the financial assurance requirements for inactive wells and wells in a temporarily abandoned status in Subsection A through E of this Section for the next year. As used in this subsection, "consumer price index" means the consumer price index, not seasonally adjusted, for all urban consumers, United States city average for all items, or its successor index, as published by the United States department of labor for a 12 month period ending September 30.	WELC's proposed CPI adjustment cannot apply to blanket financial assurances for active wells that that are already at the statutory limit of \$250,000 set forth in Section 70-2-14. Oxy's modifications limit the applicability of the CPI adjustment to the financial assurance for inactive wells and wells in a temporarily abandoned status for more than two years.

19.15.9.8 & 9.9 NMAC Overview

- Oxy supports rule revisions designed to ensure new operators seeking authority to operate, and existing operators acquiring new assets in New Mexico, do not have a history of financial assurance forfeitures in other states.
- Oxy does not oppose a certification designed to avoid registration or transfer of assets to an operator that has experienced problems in other states, but WELC's proposed language goes too far:
 - Large companies like Oxy operating in multiple states can never certify that at a particular point in time the company is in full compliance with all filing, reporting, signage or similar requirements in all states.
 - Oxy has proposed modifications to WELC's proposed language in 19.15.9.8 (operator registration) and 19.15.9.9 (change of operator) that provide a certification that can be met by large operators, is administratively efficient, and provides OCD with information to gauge whether an operator has had difficulty meeting financial obligations in other states.
 - Annual certification by all operators is unwarranted and will place an unnecessary burden on the Division to monitor and review this annual requirement.
 - Deletion of existing 19.15.9.9.C(2) is not necessary, but if deleted as WELC proposes, then WELC's proposed 19.15.9.9.E should be adopted.

Proposed Modifications to 19.15.9.8 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.8 OPERATOR REGISTRATION: A. Prior to commencing operations, an operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office: (1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department; (2) a current address of record to be used for notice and a current emergency contact name and telephone number for each district in which the operator operates wells; and (3) the financial assurance 19.15.8 NMAC requires. B. Prior to commencing operations, an operator shall provide to the division a certification by an officer, director, or partner that the new operator is in compliance with federal and state oil and gas laws and regulations in each state in which the new operator does business; a disclosure of any officer, director, partner in the new operator or person with an interest in the new operator exceeding 25 percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; and a disclosure whether the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC.	19.15.9.8 OPERATOR REGISTRATION: A. Prior to commencing operations, an operator of a well or wells in New Mexico shall register with the division as an operator. Applicants shall provide the following to the financial assurance administrator in the division's Santa Fe office: (1) an oil and gas registration identification (OGRID) number obtained from the division, the state land office or the taxation and revenue department; (2) a current address of record to be used for notice and a current emergency contact name and telephone number for each district in which the operator operates wells; and (3) the financial assurance 19.15.8 NMAC requires. B. Prior to commencing operations, an operator shall provide to the division a certification by an authorized official officer, director, or partner that the new operator is not subject to any forfeiture demands from any state or federal agency, has not forfeited financial assurance to any state or federal agency, and does not have unresolved adjudicated orders or unresolved settlement agreements for any state or federal is in compliance with federal and state oil and gas laws and regulations in any domestic jurisdiction each state in which the new operator does business; a disclosure . . . [unchanged].	Oxy does not oppose a certification designed to avoid registration or transfer of assets to an operator that has experienced problems in other states. WELC's proposal goes too far—large companies like Oxy operating in multiple states can <u>never</u> certify that at a particular point in time the company is in <u>full compliance</u> with <u>all</u> filing, reporting, signage or similar requirements in each state in which it operates. Moreover, Oxy has received notices from state and federal agencies of alleged filing, reporting, signage or similar deficiencies that upon investigation turned out to be incorrect. Oxy met with OCD and WELC and proposed reasonable modifications to the proposed certification that is feasible for new operators and will provide OCD with the information it needs to examine and identify potentially problematic operators. WELC has adopted Oxy's proposed modifications to this provision. See Applicants' Ex. 72.

Proposed Modifications to 19.15.9.8 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.8 OPERATOR REGISTRATION: <u>B.C.</u> The division may deny registration as an operator if: (1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC; (2) <u>the applicant is out of compliance with federal and state oil and gas laws and regulations in each state in which the applicant does business;</u> (23) an officer, director, partner in the applicant or person with an interest in the applicant exceeding 25 percent, is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; (34) the applicant is or was within the past five years an officer, director, partner or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; or (45) the applicant is a corporation, or limited liability company, <u>or limited partnership</u> and is not registered <u>or is not in good standing</u> with the <u>New Mexico secretary of state</u> public regulation commission to do business in New Mexico; <u>or</u> (5) the applicant is a limited partnership and is not registered with the New Mexico secretary of state to do business in New Mexico.	19.15.9.8 OPERATOR REGISTRATION: <u>B.C.</u> The division may deny registration as an operator if: (1) the applicant is not in compliance with Subsection A of 19.15.5.9 NMAC; (2) <u>the applicant has forfeiture demands from any state or federal agency, has forfeited financial assurance to any state or federal agency, or has unresolved adjudicated orders or unresolved settlement agreements for any state or federal violations is in compliance with federal and state oil and gas laws and regulations in any domestic jurisdiction each state in which the applicant does business.</u> ... [unchanged]	Same as for modifications proposed for WELC's proposed 9.15.9.8.B NMAC. Oxy met with OCD and WELC and proposed reasonable modifications to the proposed certification that is feasible for new operators and will provide OCD with the information it needs to examine and identify potentially problematic operators. WELC has adopted Oxy's proposed modifications to this provision. See Applicants' Ex. 72.

Proposed Modifications to 19.15.9.8 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.8 OPERATOR REGISTRATION: C.D. An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change. D.E. The division may require an An operator shall or applicant to <u>certify compliance annually of</u> identify its current and past officers, directors and partners and its current and past ownership interest in other operators <u>consistent with 19.15.9.8.C(2) and (3) NMAC.</u>	19.15.9.8 OPERATOR REGISTRATION: C.D. An operator shall inform the division of its current address of record and emergency contact names and telephone numbers by submitting changes in writing to the division's financial assurance administrator in the division's Santa Fe office within 30 days of the change. D.E. The division may require an An operator shall or applicant to <u>certify compliance annually of</u> identify its current and past officers, directors and partners and its current and past ownership interest in other operators <u>consistent with 19.15.9.8.C(2) and (3) NMAC.</u>	Oxy does not oppose WELC's proposed disclosures of an operator with "an officer, director partner or person with an interest exceeding 25 percent" was involved in a similar capacity with an operator not in compliance with the requirements listed in 19.15.5.9. But Oxy <u>does oppose</u> WELC's proposed requirement for an annual disclosure. Goal of preventing operators whose principals are "bad actors" from operating or continuing to operate in NM is accomplished by examining principals at the time of registration or transfer of operations. <u>Annual certification</u> by all operators in New Mexico is unwarranted and will place an unnecessary burden on the Division to monitor and review this annual requirement. Problems with an existing operator's compliance with Rule 19.15.5.9.A can be addressed through enforcement under 19.15.5.10.

Proposed Modifications to 19.15.9.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.9 CHANGE OF OPERATOR: B. The operator of record with the division and the new operator shall apply for a change of operator by jointly filing a form C-145 using the division's web-based online application. If the operator of record with the division is unavailable, the new operator shall apply to the division for approval of change of operator without a joint application. The operator shall make such application in writing and provide documentary evidence of the applicant's right to assume operations; <u>a certification by an officer, director, or partner of the new operator that the new operator is in compliance with federal and state oil and gas laws and regulations in each state in which the new operator does business; a plugging and abandonment plan; a disclosure of any officer, director, partner in the new operator or person with an interest in the new operator exceeding 25 percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; and a disclosure whether the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC.</u>	19.15.9.9 CHANGE OF OPERATOR: B. . . . The <u>new</u> operator shall make such application in writing and provide documentary evidence of the applicant's right to assume operations; <u>a certification by an authorized official officer, director, or partner of the new operator that the new operator is not subject to any forfeiture demands from any state or federal agency, has not forfeited financial assurance to any state or federal agency, and does not have unresolved adjudicated orders or unresolved settlement agreements for any state or federal violations -is in compliance with federal and state oil and gas laws and regulations in any domestic jurisdiction each- state in which the new operator does business; a plugging and abandonment plan; a disclosure of any officer, director, partner in the new operator or person with an interest in the new operator exceeding 25 percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC; and a disclosure whether the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC.</u>	Same as for modifications proposed for WELC's proposed 9.15.9.8.B NMAC. Oxy met with OCD and WELC and proposed reasonable modifications to the proposed certification that is feasible for new operators and will provide OCD with the information it needs to examine and identify potentially problematic operators. WELC has adopted Oxy's proposed modifications to this provision. See Applicants' Ex. 72.

Proposed Modifications to 19.15.9.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.9 CHANGE OF OPERATOR: B. . . . The new operator shall not commence operations until the division approves the application for change of operator. <u>The plugging and abandonment plan shall be certified by an officer, director, or partner of the new operator and shall demonstrate that the new operator has and will have the financial ability to meet the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells to be transferred in light of all the operator's assets and liabilities. The division may request the operator to provide additional information including corporate credit rating, corporate financial statements, long-term liabilities, reserves and economics report, records of the operator's historical costs for decommissioning activities, estimate of the operator's decommissioning obligations, and history of inactive wells and returning wells to production.</u>	19.15.9.9 CHANGE OF OPERATOR: B. . . . The new operator shall not commence operations until the division approves the application for change of operator. <u>The plugging and abandonment plan shall be certified by an authorized representative an officer, director, or partner of the new operator and shall demonstrate that the new operator has and will have the financial ability to meet the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells to be transferred in light of all the operator's assets and liabilities. The division may request the operator to provide additional information including corporate credit rating, corporate financial statements, long-term liabilities, reserves and economics report, records of the operator's historical costs for decommissioning activities, estimate of the operator's decommissioning obligations, and history of inactive wells and returning wells to production.</u>	Same as for modifications proposed for WELC's proposed 9.15.9.8.B NMAC. Oxy met with OCD and WELC and proposed reasonable modifications to the proposed certification that is feasible for new operators and will provide OCD with the information it needs to examine and identify potentially problematic operators. WELC has adopted Oxy's proposed modifications to this provision. See Applicants' Ex. 72.

Proposed Modifications to 19.15.9.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.9 CHANGE OF OPERATOR: C. The director of the director's designee may deny a change of operator if: (1) the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC; or (2) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order. <u>(2) the new operator is out of compliance with federal and state oil and gas laws and regulations in each state in which the new operator does business;</u> <u>(3) any officer, director, partner in the new operator or person with an interest in the new operator exceeding 25 percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;</u>	19.15.9.9 CHANGE OF OPERATOR: C. The director of the director's designee may deny a change of operator if: (1) the new operator is not in compliance with Subsection A of 19.15.5.9 NMAC; or (2) the new operator is acquiring wells, facilities or sites subject to a compliance order requiring remediation or abatement of contamination, or compliance with 19.15.25.8 NMAC, and the new operator has not entered into an agreed compliance order setting a schedule for compliance with the existing order. <u>(23) the new operator has forfeiture demands from any state or federal agency, has forfeited financial assurance to any state or federal agency, or has unresolved adjudicated orders or unresolved settlement agreements for any state or federal violations is out of compliance with federal and state oil and gas laws and regulations in any domestic jurisdiction each state in which the new operator does business;</u> <u>(34) any officer, director, partner in the new operator or person with an interest in the new operator exceeding 25 percent, who is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;</u>	WELC has proposed to remove subsection C(2) of existing Rule 19.15.9.9 which states the Division may deny a change of operator if the new operator has not agreed on a schedule to complete the requirements imposed on the existing operator by an agreed compliance order. See WELC Ex. 1-D at p. 2. The reason for this change is unknown, but Oxy notes WELC has proposed adding a new subsection E to 19.15.9.9, which appears to contain a similar provision. The existing Subpart C(2) is sufficient, but does not oppose WELC's proposed deletion as long as the proposed new 19.15.9.9.E is adopted by the OCC; otherwise, Oxy proposes retaining existing 19.15.9.9.C(2). Oxy proposes to include additional language in 19.15.9.9.C(3) NMAC for the same reasons it proposes to modify WELC's proposed language in 9.15.9.8.B NMAC, 19.15.9.9.B NMAC and 19.15.9.8.C(2). WELC has adopted Oxy's proposed modifications to 19.15.9.9.C(3). See Applicants' Ex. 72.

Proposed Modifications to 19.15.9.9 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.9.9 CHANGE OF OPERATOR: C. The director of the director's designee may deny a change of operator if: ... <u>(4) the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;</u> <u>(5) the applicant is a corporation, limited liability company, or limited partnership and is not registered or is not in good standing with the New Mexico secretary of state to do business in New Mexico; or</u> <u>(6) the certification or disclosure requirements set forth in Subsection B of this Section disclose a substantial risk that the new operator would be unable to satisfy the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells the new operator intends to take over.</u> E. No well, facility or site that is out of compliance with Subsection A of 19.15.5.9 NMAC, 19.15.29 NMAC, or 19.15.30 NMAC shall be transferred unless, prior to transfer, the current operator brings the associated well, facility or site into compliance or the new operator submits a schedule of compliance approved by the division.	19.15.9.9 CHANGE OF OPERATOR: C. The director of the director's designee may deny a change of operator if: ... <u>(45) the new operator is or was within the past five years an officer, director, partner, or person with an interest exceeding 25 percent in another entity that is not currently in compliance with Subsection A of 19.15.5.9 NMAC;</u> <u>(56) the applicant is a corporation, limited liability company, or limited partnership and is not registered or is not in good standing with the New Mexico secretary of state to do business in New Mexico; or</u> <u>(67) the certification or disclosure requirements set forth in Subsection B of this Section disclose a substantial risk that the new operator would be unable to satisfy the plugging and abandonment requirements of 19.15.25 NMAC for the well or wells the new operator intends to take over.</u> E. No well, facility or site that is out of compliance with Subsection A of 19.15.5.9 NMAC, 19.15.29 NMAC, or 19.15.30 NMAC shall be transferred unless, prior to transfer, the current operator brings the associated well, facility or site into compliance or the new operator submits a schedule of compliance approved by the division.	No substantive changes; just re-numbering proposed new subparts. The existing 19.15.9.9.C(2) is sufficient, but Oxy does not oppose WELC's proposed deletion as long as the proposed new 19.15.9.9.E is adopted by the OCC.

19.15.25.8 NMAC Overview

WELC has proposed to shorten the period for action on inactive wells under 19.15.25.8.B from 90 to 30 days, and to remove the word “continuously” from Subpart B(3). See WELC Ex. 1-E at p. 1.

- These provisions were enacted by the Commission after an extensive public hearing and testimony. Operators and the Division have become accustomed to these timelines and Oxy is not aware of any problems posed by these timelines. Absent a clear need to change this time period, the rules should not be modified.

It is unclear why WELC seeks to remove the word “continuously” from Subpart B(3). The current rule contains this provision to clarify that periods of inactivity within a year do not require action by an operator under this provision.

- Concerns about the inactive state of a well during a period of one year can be addressed by the inquiry provided by WELC’s proposed 19.15.25.9 “Presumptions of No Beneficial Use.” Subpart A of WELC’s proposed rule triggers action by the Division if a well “has not produced for 90 days and has not produced at least 90 barrels of oil equivalent” within a 12-month period.

Proposed Modifications to 19.15.25.8 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.8 WELLS TO BE PROPERLY ABANDONED: A. The operator of wells drilled for oil or gas or services wells including seismic, core, exploration or injection wells, whether cased or uncased, shall plug the wells as Subsection B of 19.15.25.8 NMAC requires. B. The operator shall either properly plug and abandon a well or apply to the division to place the well in approved temporary abandonment in accordance with 19.15.25 NMAC within 90 30 days after: (1) a 60 day period following suspension of drilling operations; (2) a determination that a well is no longer usable for beneficial purposes; or (3) a period of one year in which a well has been continuously inactive. [19.15.25.8 NMAC - Rp, 19.15.4.201 NMAC, 12/1/2008]	19.15.25.8 WELLS TO BE PROPERLY ABANDONED: A. The operator of wells drilled for oil or gas or services wells including seismic, core, exploration or injection wells, whether cased or uncased, shall plug the wells as Subsection B of 19.15.25.8 NMAC requires. B. The operator shall either properly plug and abandon a well or apply to the division to place the well in approved temporary abandonment in accordance with 19.15.25 NMAC within 90 30 days after: (1) a 60 day period following suspension of drilling operations; (2) a determination that a well is no longer usable for beneficial purposes; or (3) a period of one year in which a well has been continuously inactive. [19.15.25.8 NMAC - Rp, 19.15.4.201 NMAC, 12/1/2008]	Provisions were enacted by OCC after extensive public hearing. Not aware of any problems posed by existing timelines. Absent a clear need to change, the rules should not be modified. “Continuously” was included to clarify that periods of inactivity within a year do not require action by an operator under this provision—unclear why WELC is proposing to remove. Longstanding 90-day period can be needed for operators to review facts and circumstances and make appropriate decisions, particularly when the time for action under Subpart 25.8 is triggered by the suspension of drilling operations or a determination that the well is no longer usable for a beneficial purpose. A shorter period may be possible in some instances, it is not always the case and the longer period should be retained. Any concerns about inactive status of a well during a period of one year can be addressed under WELC’s proposed 19.15.25.9 “Presumptions of No Beneficial Use” provision.

19.15.25.9 NMAC Overview

Oxy supports WELC's proposed 19.15.25.9 entitled "Presumptions Of No Beneficial Use" with a few modifications. See WELC Ex. 1-E at p. 1. WELC's proposed new provision is an efficient way to address wells whose level of activity or production raises concerns about whether those wells continue to serve a potentially beneficial purpose.

Oxy's minimal suggested changes to this new provision are designed to provide:

- (a) the Division with flexibility to address a variety of circumstances, and
- (b) avoid the need for large operators such as Oxy to submit documentation about its "capitalization or reasonably projected revenue" each and every time the Division inquiries about the viability of a particular well.

NOTE: WELC's proposed mandatory requirement to submit the litany of required information in every circumstance is not applicable to injection wells, monitoring wells, or wells that are part of an EOR project.

Rather than being mandatory, the proposed required information should serve as an example of what an Operator may submit to the Division and what the Division may request.

With the proposed provisions, Oxy does not see a need to define "beneficial purpose" or "beneficial use" as proposed by WELC. Leaving the term undefined will allow the Division and Operators flexibility when addressing a notice of no beneficial use from the Division under proposed 19.15.25.9 NMAC.



Proposed Modifications to 19.15.25.9 NMAC

WELC Proposal	Oxy Modification	Rationale
<u>19.15.25.9 PRESUMPTIONS OF NO BENEFICIAL USE:</u> <u>A.</u> For oil and gas production wells, there is a rebuttable presumption that a well is not capable of beneficial use if, in a consecutive 12 month period, the well has not produced for at least 90 days and has not produced at least 90 barrels of oil equivalent. <u>B.</u> For injection or salt water disposal wells, there is a rebuttable presumption that a well is not capable of beneficial use if, in a consecutive 12 month period, the well has not injected at least 90 days and at least 100 barrels of fluid. <u>C.</u> The rebuttable presumptions in this Section do not apply to wells that have been drilled but not completed for less than 18 months and wells that have been completed but have not produced for less than 18 months.	No Changes	Oxy supports WELC proposed 19.15.25.9 NMAC entitled “Presumptions Of No Beneficial Use” Subparts A, B, and C <u>with no modifications</u> and only minor proposed changes to Subpart D. Oxy believes the proposed provision is an efficient way to address wells whose level of activity or production raises concerns about whether those wells continue to serve a potentially beneficial purpose.

Proposed Modifications to 19.15.25.9 NMAC

WELC Proposal	Oxy Modification	Rationale
<u>19.15.25.9 PRESUMPTIONS OF NO BENEFICIAL USE:</u> <u>D. Within 30 calendar days after notice of a preliminary determination from the division that a well or wells are not being used for beneficial purposes, a well operator may submit an application for administrative review of such determination through the division's electronic permitting portal. The division shall issue a final determination based on the application and information available in division records. The final determination may be appealed pursuant to 19.15.4 NMAC. Applications to demonstrate beneficial use of a well or wells shall include:</u> <u>(1) Documentation demonstrating that the well is reasonably projected to produce in paying quantities; and</u> <u>(2) Documentation demonstrating that the operator maintains adequate capitalization or reasonably projected revenue sufficient to meet all reasonably anticipated plugging and environmental liabilities of the well or wells and associated production facilities, not inclusive of any financial assurance associated with the well or wells; and</u> <u>(3) Other relevant information requested by the division including a plugging and abandonment plan as described in 19.15.9.9.B NMAC.</u>	D. <u>Within 30 calendar days after notice of a preliminary determination from the division that a well or wells are not being used for beneficial purposes, a well operator may submit an application for administrative review of such determination through the division's electronic permitting portal. The division shall issue a final determination based on the application, and information available in division records, and any information requested by the Division. The final determination may be appealed pursuant to 19.15.4 NMAC. Applications must demonstrate beneficial use of a well or wells and the operator must provide any information requested by the Division. Such documentation shall may include:</u> <u>(1) Documentation demonstrating that the well is reasonably projected to produce in paying quantities; and</u> <u>(2) Documentation demonstrating that the operator maintains adequate capitalization or reasonably projected revenue sufficient to meet all reasonably anticipated plugging and environmental liabilities of the well or wells and associated production facilities, not inclusive of any financial assurance associated with the well or wells; and</u> <u>(3) Other relevant information requested by the division including a A plugging and abandonment plan as described in 19.15.9.9.B NMAC; and</u> <u>(4) Other relevant information requested by the division</u>	Oxy proposes minimal changes to this new provision in Subpart D that will provide: - OCD with <u>flexibility</u> to address a variety of circumstances, and - Avoid the need for large operators to submit documentation about its “capitalization or reasonably projected revenue” <u>every time</u> the Division inquires about the viability of a particular well. With this proposed provision, Oxy does not see a need to define “beneficial purpose” or “beneficial use” as proposed by WELC. See WELC Ex. 1-A at p. 2 (proposed 19.15.2.7.B(5) NMAC). WELC has adopted Oxy's proposed modifications to this provision. See Applicants' Ex. 1 [Sub].

19.15.25.12 NMAC Overview

- **19.15.25.12 NMAC** currently gives OCD authority to place wells in TA status “for up to five years” (can be set a shorter initial period) and provides discretion to extend the status for good cause shown
 - Currently limits the number of wells that can be in TA status
- **19.15.25.13** identifies evidence an operator must submit on the well’s casing and cementing when seeking approval of temporary abandonment status.
- **19.15.25.14** identifies the mechanical integrity tests an operator must perform on the well before seeking approval of temporary abandonment status.

Not aware of any deficiencies in this existing process that has caused concerns with the integrity of wells in approved TA status.

WELC proposes to split what is now Rule 19.15.25.12 into Subpart A that addresses the initial request for TA status and Subpart B that addresses requests to extend TA status.

Some of WELC’s proposed changes are unnecessary and unwisely eliminate the Division’s discretion.



Proposed Modifications to 19.15.25.12 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.1213 APPROVED TEMPORARY ABANDONMENT: A. The division may place a well in approved temporary abandonment for a period of up to five years <u>upon a demonstration from the operator that the well will be used for beneficial use within the approved period of temporary abandonment. The operator's demonstration shall include an explanation why the well should be placed in temporary abandonment, how the well will be put to beneficial use in the future including supporting technical and economic data, a plan that describes the ultimate disposition of the well, the time frame for that disposition, and any other information the division determines appropriate, including a current and complete well bore diagram; geological evidence; geophysical data; well casing information; waste removal and disposition; production engineering; geophysical logs, e.g., cement bond logs, caliper logs, and casing inspection logs; and health, safety, and environmental information. If the division denies a request, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.</u>	19.15.25.1213 APPROVED TEMPORARY ABANDONMENT: A. The division may place a well in approved temporary abandonment for a period of up to five years <u>after review of the evidence and tests required by Section 19.15.25.13 and Section 19.15.25.14 [current] and upon a demonstration from the operator that the well will be used for beneficial use within the approved period of temporary abandonment. The operator's demonstration shall include an explanation why the well should be placed in temporary abandonment, how the well will be put to beneficial use in the future including supporting technical and economic data, a plan that describes the ultimate disposition of the well, the time frame for that disposition, and any other information the division determines appropriate, including a current and complete well bore diagram; geological evidence; geophysical data; well casing information; waste removal and disposition; production engineering; geophysical logs, e.g., cement bond logs, caliper logs, and casing inspection logs; and health, safety, and environmental information.</u> If the division denies a request, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	Oxy does not oppose WELC's proposal to require operators seeking approved TA status to explain (1) purpose of the request, (2) future use of the well, (3) period needed for that future use, and (4) provide information OCD deems appropriate. Oxy proposes to eliminate mandatory submissions and incorporate internal references to existing regulations to avoid confusion and for OCD to retain discretion. - Proposed <u>mandatory</u> submissions for <u>every</u> application are not necessary, vague, can include proprietary information, not directly related to what is required for TA status, or duplicative of existing requirements creating confusion. - Allows OCD to retain flexibility and tailor required information to specific circumstances.

Proposed Modifications to 19.15.25.12 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: B. Prior to the expiration of an approved temporary abandonment, the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for a new approval to temporarily abandon the well to the division to extend temporary abandonment status pursuant to the procedures for adjudicatory proceedings in 19.15.4 NMAC, except that in any such adjudicatory proceeding any interested person may intervene under 19.15.4.11.A NMAC. To continue in temporary abandonment, the operator must demonstrate to the division that the well will be returned to beneficial use within the requested period of temporary abandonment. The request shall include documentation demonstrating why the well should remain in temporary abandonment; documentation demonstrating why the well was not brought back to beneficial use or plugged and abandoned during the period of temporary abandonment; documentation demonstrating how the well will be put to beneficial use in the future and supporting technical and economic data; a plan that describes the ultimate disposition of the well, the time frame for that disposition; and a health and safety plan demonstrating the well's casing and cementing meet the requirements of Subsections B and C of Section 19.15.25.13 NMAC and the operator has adequate monitoring procedures in place to ensure such requirements will be met. An extended term shall not exceed two additional years, upon which time the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	19.15.25.4213 APPROVED TEMPORARY ABANDONMENT: B. Prior to the expiration of an approved temporary abandonment, the operator shall return the well to beneficial use under a plan the division approves, permanently plug and abandon the well and restore and remediate the location, or apply for a new approval to temporarily abandon the well to the division to extend temporary abandonment status pursuant to the procedures for adjudicatory proceedings in 19.15.4 NMAC, except that in any such adjudicatory proceeding any interested person may intervene under 19.15.4.11.A NMAC. To continue in temporary abandonment, the operator must demonstrate to the division that the well will be returned to beneficial use within the requested period of temporary abandonment. address. The request shall include documentation demonstrating why the well should remain in temporary abandonment; address documentation demonstrating why the well was not brought back to beneficial use or plugged and abandoned during the period of temporary abandonment; address documentation demonstrating how the well will be put to beneficial use in the future, demonstrate and supporting technical and economic data; a plan that describes the ultimate disposition of the well, the time frame for that disposition; and a health and safety plan demonstrating the well's casing and cementing meet the requirements of Subsections B and C of Section 19.15.25.13 NMAC current; and any other information the division determines appropriate and the operator has adequate monitoring procedures in place to ensure such requirements will be met. An extended term shall not exceed two additional years, upon which time the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	Oxy proposes to eliminate the portion of WELC's proposed additions to subsection B limiting the Division's authority to extend temporary abandonment status to no longer than two (2) years. Oxy believes the Division should retain full discretion for the length of time an eligible well may be approved for TA status. - Enhanced recovery projects frequently benefit from an inventory of TA wells; - For example, Oxy has 523 wells that have been or will be converted to producing out of TA status; - Converting these wells can take many years due a variety of factors: - Economics, technology, regulatory hurdles, and infrastructure.

Proposed Modifications to 19.15.25.12 NMAC

WELC Proposal	Oxy Modification	Rationale
19.15.25.1213 APPROVED TEMPORARY ABANDONMENT: <u>D. Implementation schedule for existing wells.</u> <u>(1) Inactive wells.</u> Wells that have been inactive for less than three years are eligible for temporary abandonment status. Wells that have been inactive for three or more years are not eligible for temporary abandonment status. <u>(2) Wells in approved temporary abandoned status.</u> Any operator of a well in temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section prior to the date temporary abandonment status terminates. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location. <u>(3) Wells in expired temporary abandoned status.</u> Any operator of a well in expired temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	19.15.25.1213 APPROVED TEMPORARY ABANDONMENT: <u>D. Implementation schedule for existing wells.</u> <u>(1) Inactive wells.</u> Wells that are inactive as of [effective date of amendments] shall be returned to beneficial use, permanently plug or subject to a request to place the wells in temporary abandoned status within a year of [effective date of amendment]. Wells that have been inactive for less than three years are eligible for temporary abandonment status. Wells that have been inactive for three or more years are not eligible for temporary abandonment status. <u>(2) Wells in approved temporary abandoned status.</u> Any operator of a well in temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section prior to the date temporary abandonment status terminates. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location. <u>(3) Wells in expired temporary abandoned status.</u> Any operator of a well in expired temporary abandoned status as of [effective date of amendments] shall apply to the division to extend temporary abandonment status in accordance with Subsection B of this Section. Unless an operator of a well has renewed a temporary abandonment in accordance with this Paragraph, the operator shall return the well to beneficial use under a plan the division approves or permanently plug and abandon the well and restore and remediate the location.	Oxy proposes to eliminate the portion of WELC's proposed additions to subsection D limiting the eligibility of wells to be in TA status to only those that have been inactive for less than three (3) years. Oxy believes the Division should retain full discretion over which wells are eligible for TA status. - Enhanced recovery projects frequently benefit from an inventory of TA wells-many of which will have been inactive for three years or more; - Allowing wells with mechanical integrity to be granted TA status will not only assist in continued enhanced recovery, but also prevent operators from having to prematurely plug wells only to have to drill new wells for EOR projects.

TIFFANY WALLACE

Oxy USA, Inc.
Rebuttal Testimony



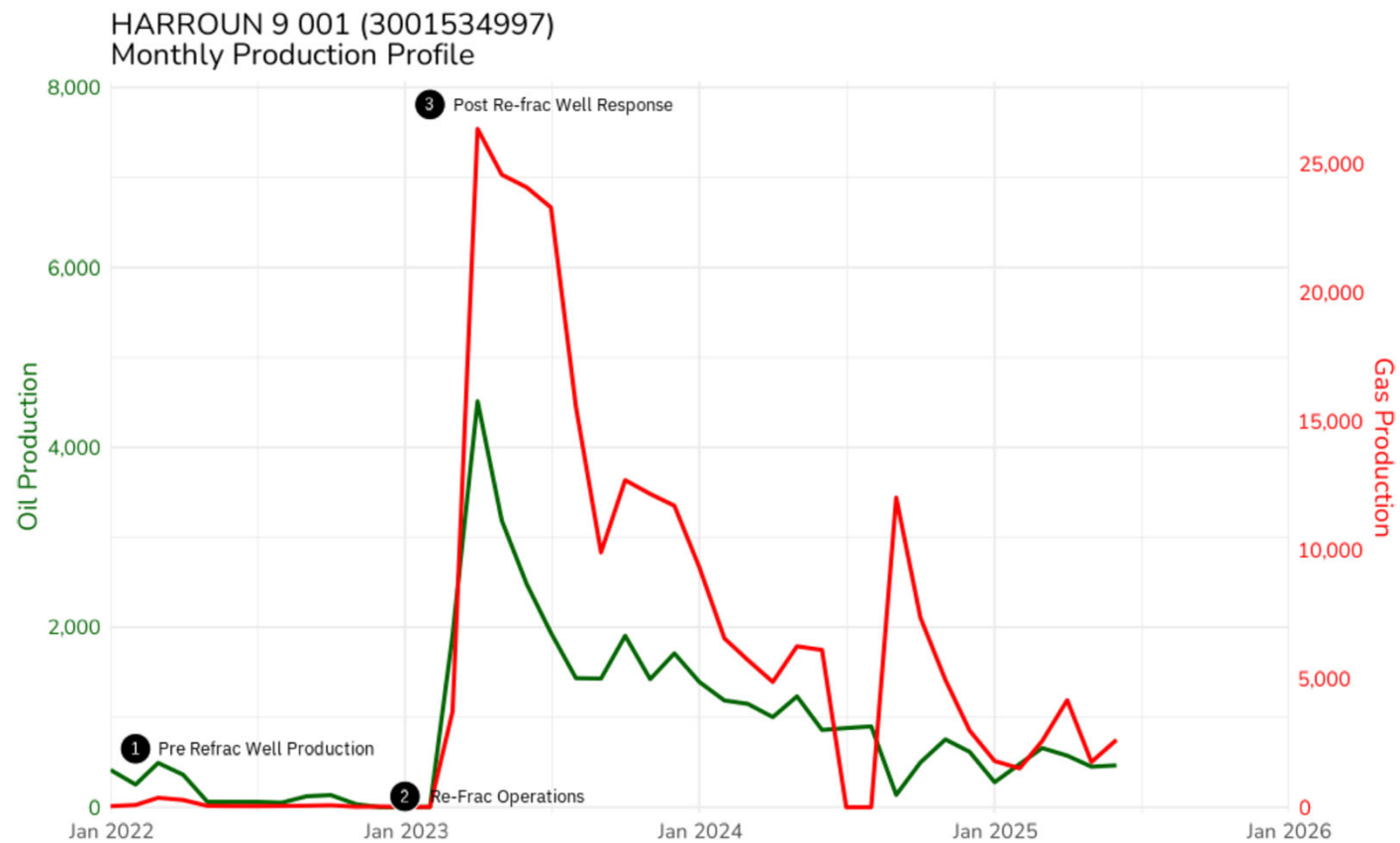
MARGINAL WELLS

- OCD's Justin Wrinkle testifies that "marginal wells" have "low production, are aging, and hold little value as an asset other than the lease." See OCD Exhibit 7-0002 at lines 2-3.
- He further suggests that wells are often retained only to hold leases. See *id.* OCD Exhibit 7-0006 at lines 9-19.
- It is not always the case that marginal wells have value only for purposes of holding or conveying the underlying lease. Oxy feels this oversimplifies the role marginal wells sometimes play in oil and gas transactions or lease management as well as understates their potential value for workovers.

OXY MARGINAL WELL CASE STUDIES:

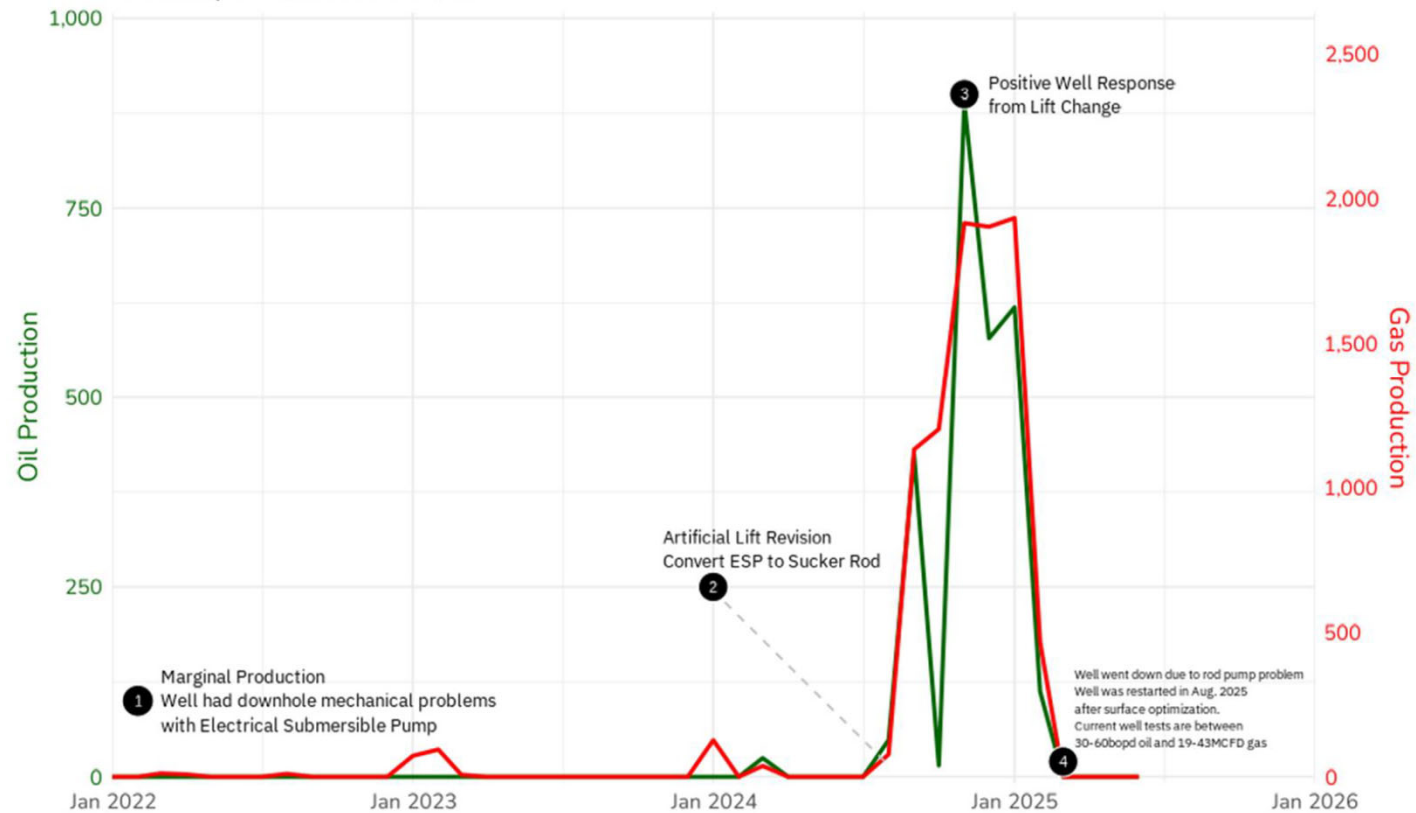
- Harroun 9 001 Well – marginal production in 2022 but after re-frac operations, successfully produced thousands of BBLs over the next 12 months
- FNR 35 Fed 3H Well – marginal due to downhole issues, but after artificial lift optimization, production back online and is trending upward.
- CC15 002H Well – marginal until re-completion operation which more than doubled production in less than 6 months.

HARROUN 9 001 WELL



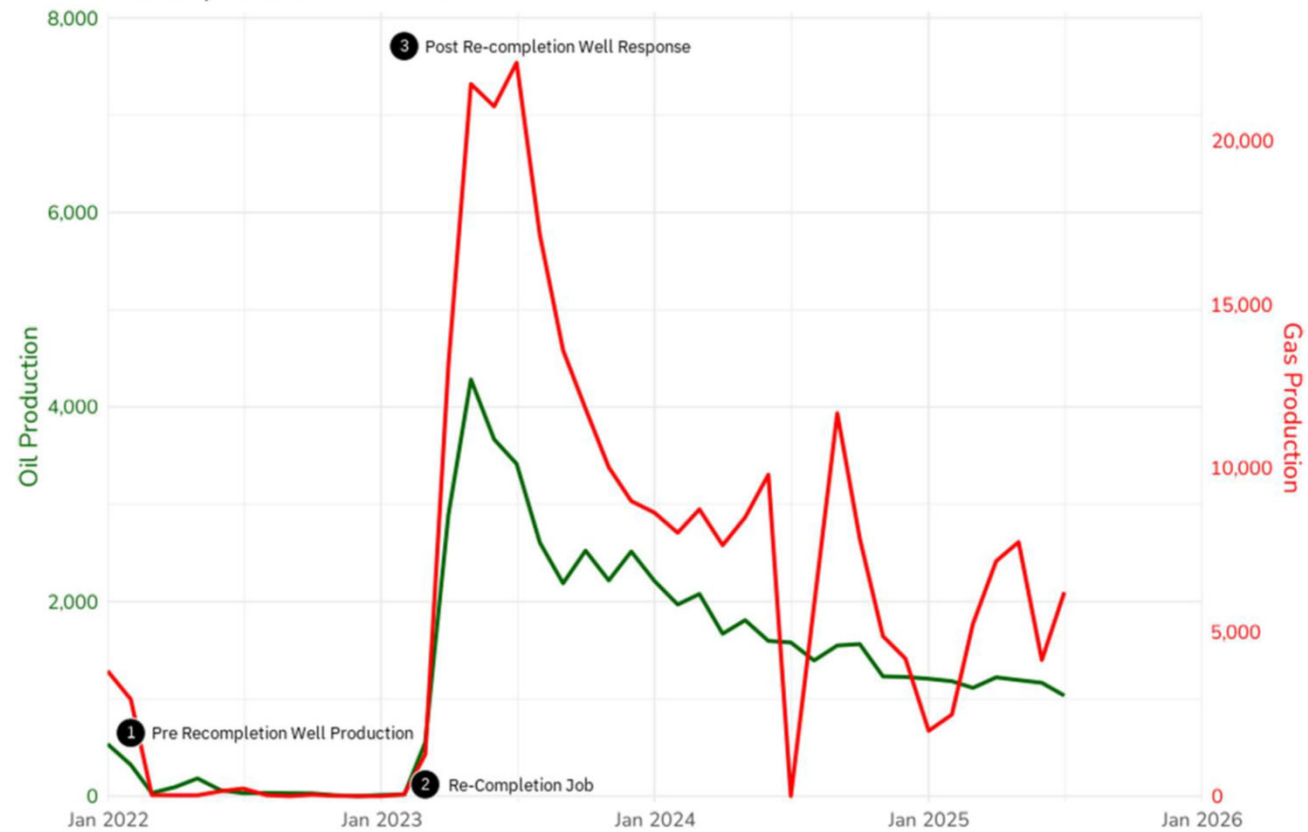
FNR 35 FED 3H WELL

FNR 35 Fed 3H (3001542298)
Monthly Production Profile



CC15 002H WELL

CC15-002H (3001541032)
Monthly Production Profile



MARGINAL WELLS

- Asserting “marginal wells” hold little value paints these often highly marketable wells with far too broad of a brush and an overstatement that fails to account for the specific circumstances of a given well.
- **Each “marginal” well**, and its potential value or utility—either for continued production or some other valuable purpose, such as injection or enhanced oil recovery operations—must be evaluated on a case-by-case basis.
- Oxy’s case studies are examples where simple operations can improve production using existing well inventories without having to drill new, unnecessary wells that can lead to economic waste and may be cost-prohibitive.

NEGOTIATIONS WITH WELC AND OCD

- Oxy participated in negotiations with WELC and OCD and reached agreement on several proposals reflected in OXY Exhibit 1.
 - 19.15.9.8 NMAC (Operator Registration)
 - 19.15.9.9 NMAC (Change of Operator)
 - 19.15.25.9 NMAC (Presumption of No Beneficial Use)*

*Oxy objects to defining "beneficial purposes" and "beneficial use"

